

United States
Circuit Court of Appeals ⁶

For the Ninth Circuit.

Transcript of Record.

(IN TWO VOLUMES.)

WALTON N. MOORE DRY GOODS CO., a
Corporation, J. H. NEWBAUER & COM-
PANY, a Corporation, G. W. REYNOLDS
CO., INC., a Corporation, and L. DINKEL-
SPIEL CO., INC., a Corporation,

Appellants,

vs.

A. F. LIEURANCE, and PHILLIP A. HER-
SHEY, as Receivers of R. A. PILCHER
CO., INC., a Corporation, Bankrupt,

Appellees.

VOLUME II.

(Pages 449 to 829, Inclusive.)

Upon Appeal from the United States District Court for
the Northern District of California,
Southern Division.

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(Testimony of A. F. Lieurance.)

Recross-examination by Mr. HENEY.

Q. Did you tell Judge Webster what was allowed in San Francisco to the Receiver, and how much to the attorney?

A. I don't recall that it was so told to Judge Webster; I think it was told to Judge Bean. I don't recall that it was told to Judge Webster.

Q. Was he told that the attorneys in New York had asked for \$10,000 on account?

A. I don't recall that he was, Mr. Heney.

Q. That was stated in the petition for allowance, wasn't it? [346]

A. I don't know. It might have been. Judge Neterer was more particular. When I say he was more particular, I mean he took more time and went into the matter more thoroughly. After the regular procedure, just the same as had taken place in the other courts, that is, the presenting of the statement, or the report, he questioned me at some length regarding the result obtained in the receivership. I told him the result that we had obtained. As a matter of fact, he had passed upon the work that had gone on before, and was highly pleased with the result of the sales, and commented upon the manner in which the estate had been handled, and said that it was one of the best that had come to his attention. He asked me how much I was asking for. I told him it was a matter to be left entirely to the Court. He said he understood that, but I certainly had some idea what the services were worth.

(Testimony of A. F. Lieurance.)

I refrained as long as I could, until I was asked the direct question, and felt that I had to answer as to what I would expect for the services. He also delved into the matter as to whether or not the receivership was to be closed up. I told him no, I did not believe so, but that we wanted to pay the 40 per cent dividend, and that there would be another dividend later on, and so far as I knew, the matter could be brought to a close some time, possibly, in April, or maybe earlier. He inquired about the amount of sales in that particular jurisdiction, and I gave it to him, and he took out his pencil and figured out the amount at 5 per cent on the gross sales. As I remember it, it figured up about \$13,000. He said, "I don't think anybody can object to that, however, are you going to make any other application for fees?" I said, "I don't know, it depends on the amount of work that has to be done in the future." He said, "We will make this \$12,000, and then if there is any other work done later on we will attend to it when the final account is heard." So that instead of figuring it at 5 per cent he took off \$1,000 and made the fee \$12,000. Virtually the same thing prevailed in the court in Portland, [347] Oregon. Judge Bean took considerable interest in the affair, and asked a number of questions regarding the estate, and the results obtained. He asked what had been done in the other jurisdictions, and I told him. He said he thought that was fair and equitable, and he did not believe anybody could object to that, and that he would make the order

(Testimony of A. F. Lieurance.)

for 5 per cent on the sales, and make that the final compensation so far as my compensation would be concerned. He figured the 5 per cent on the gross sales. That is how it comes to be an odd figure. That is the way these allowances were obtained. There was no breach of confidence, and no effort made to deceive the Court, and there was nothing done to influence the Court in any manner, except just as I have told you.

That is substantially what has happened in every jurisdiction. The total allowance amounted to \$35,-587 to me in these jurisdictions. To Mr. Eliassen they amounted to \$27,500. The consideration that has been given them is just as I have told it to you, in the various courts.

Mr. HENEY.—Q. In the Western District of Washington it was left at \$13,000, \$1,000 to go to Gotthold, was it not?

A. Yes. I did not intentionally overlook the division of these allowances, Mr. Heney. I have told you how the division was made here in San Francisco. In Spokane, when Judge Webster made the allowance, he made it virtually on a 5 per cent basis, because the sales in that locality were approximately \$100,000. He did not take his pencil out and figure it, because it is an easy matter to figure that mentally. The other ran into odd figures, and that probably accounts for it. I asked Judge Webster to make a division of that. I told him that Mr. Gotthold had done none of the work in these jurisdictions. Judge Webster said he felt the divi-

(Testimony of A. F. Lieurance.)

sion should be made, and that Mr. Gotthold should not receive as much as I. However, he had filed a bond and had taken some of the responsibility, and Judge Webster felt that he was entitled to something. I asked him if he [348] would make the division. He informed me that he would make the division at the final hearing. So that matter was left. In Seattle Judge Neterer said, "I don't know Mr. Gotthold, he has never appeared in this court, I don't know that he is entitled to any of it." I recited to Judge Neterer the conversation I had, as nearly as I could, with Judge Webster. That is where I got the idea that Mr. Gotthold had filed a bond and probably was entitled to something, since he had taken a part of the responsibility. Judge Neterer said, "Well, possibly, that is so, \$1,000." I said that that was all right with me. In Judge Bean's court I told him what the amount that Judge Neterer had fixed was, and that is how that came to be fixed at \$1,000 in Portland, Oregon.

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EVIDENCE INTRODUCED BY THE OBJECT-
ING CREDITORS.

TESTIMONY OF WILLIAM J. HAYES, FOR
OBJECTING CREDITORS.

WILLIAM J. HAYES, called and sworn as a witness for the objecting creditors, testified, in substance, as follows:

Direct Examination by Mr. HENEY.

I am an attorney at law; am admitted to the Supreme Court of the State of California, was admitted to that court about 1911 or 1912; and have been practicing ever since I was admitted.

At one time I occupied the position of Referee in Bankruptcy in the federal court. I was appointed in August, 1914; my successor was appointed, I think, in September, 1926. I am still Referee in cases which were pending before me prior to the appointment of my successor.

As such Referee in Bankruptcy, I had occasion to determine the value of the services or fees to be allowed for Receivers in bankruptcy. I might add to that answer, in the matter of Receivers' fees and trustees' fees they are fixed largely by statute, by the Act—the Bankruptcy Act. There is a certain discretion in the referee as to additional compensation allowed.

Under that law fixing fees for a Receiver or trustee in bankruptcy, the fee of a Receiver is fixed upon a percentage basis, where he conducts the busi-

(Testimony of William J. Hayes.)

ness subsequent to his appointment. The percentage is 6% on the first \$500; 4% on the next \$1,000; 2% on the next \$8,500; and 1% on all moneys over that; and that may be doubled in the event of special services in the conduct of the business; the question of doubling the fee is in the discretion of the Referee in Bankruptcy.

The section of the federal statute to which I refer is Sec. 48-a of the Bankruptcy Act of 1898 as amended. If I might be permitted to explain the answer. There might be some ambiguity about the amount of money handled by the Receiver, but Judge Hand of New York held that the amount of money is the amount of money not [350] turned over by the Receiver or trustee in the conduct of the business, but the profit, if there be such he has made in the turnover of the business. In other words, where the business was conducted by a Receiver and there was a turn-over of eight or nine hundred thousand dollars, and the profit to the estate was \$50,000, the allowance was on the \$50,000 over and above the amount of the inventory or price which was brought for—or obtained for the sale.

In other words, after all of the property is disposed of, the percentage is computed on the net result or the net amount of money produced.

As Referee in Bankruptcy, I had occasion to determine the fees of attorneys for Receivers and trustees in bankruptcy. There is no law on the subject; it is left to the discretion of the Referee in Bankruptcy.

(Testimony of William J. Hayes.)

I have read the statement of services by Edward R. Eliassen, identified in this proceeding as Receiver's Exhibit No. 2. I have read all of it. In my opinion, the sum of \$25,000 would be a reasonable attorney's fee to be allowed to Mr. Eliassen for his services as attorney for the receiver in this case. In fixing that amount, I include Mr. Eliassen's services in his effort to get his fee allowed.

Cross-examination by Mr. CROSBY.

In my experience as a Referee in Bankruptcy, I had under my supervision the West Gate Metal Products Co. I do not remember what fees were allowed the Receiver in that case. I do not recall now what fees were allowed by me to the attorneys in that matter. That matter has been pending about two years; it is still pending.

Q. Have you had laid before you at any time a statement such as the one you have in your hand now, setting forth the services of the attorneys at any time in any proceeding you have had?

A. Oh, yes; the attorneys are required to set forth their services.

Q. In the detail as you have it there? [351]

A. No; I don't think any attorney has set forth in as full detail,—telephone calls, letters received, telegrams received and sent, and so forth.

TESTIMONY OF MILTON NEWMARK, FOR
OBJECTING CREDITORS.

MILTON NEWMARK, called and sworn as a witness for the objecting creditors, testified, in substance as follows:

Direct Examination by Mr. HENEY.

My profession or business is that of an attorney; am admitted to practice in all of the courts of the State of California; was first admitted in 1904; and ever since then, I have been engaged continuously in the practice of law.

I have been a member of partnerships during that period. When I was admitted I was in partnership with Walter Mansfield; I am not quite sure of the dates; I went in partnership with Nathan Frank, and then Nathan Frank and Walter Mansfield came together under the name of Frank & Mansfield, and I was a junior partner with them for a number of years. Then they separated, and I went with Mr. Mansfield, and we formed a partnership under the name of Mansfield & Newmark; that lasted about four years.

Since the time I was admitted I have been practicing more or less in bankruptcy matters and in receivership matters.

I have examined the copy of a 133-page bill of particulars, being the statement which was made by Mr. Eliassen, Receiver's Exhibit No. 2; I examined it last evening.

(Testimony of Milton Newmark.)

In my opinion, the sum of \$20,000 would be a fair and reasonable compensation for the services performed by Mr. Eliassen in that matter.

(Questions by the MASTER.)

Q. Did you exclude from your consideration any of the services stated in here, Mr. Newmark?

A. No, your Honor; I read that from beginning to end, and the calculation I made is what I [352] think would be reasonable compensation for the services enumerated in that itemized bill of particulars, up to the last item, but nothing beyond it.

(No cross-examination.)

TESTIMONY OF A. B. KREFT, FOR OBJECTING CREDITORS.

A. B. KREFT, called and sworn as a witness for the objecting creditors, testified, in substance, as follows:

Direct Examination by Mr. HENEY.

I hold the official position of Referee in Bankruptcy of San Francisco; have occupied that position since 1910; prior to that time I was practicing law; was admitted to the Supreme Court of California in 1897.

I was secretary to E. H. Heacock, who was the Master in Chancery and United States Commissioner for a number of years; I was in that position at the time of my appointment as Referee.

As Referee in Bankruptcy I have had occasion from time to time to fix fees for Receivers and trus-

(Testimony of A. B. Krefl.)

tees in bankruptcy, and likewise for attorneys for Receivers and trustees.

I have read a copy of Receiver's Exhibit No. 2, which is a typewritten statement by Edward R. Eliassen.

In my opinion, from \$20,000 to \$25,000 would be a fair and reasonable compensation for the services performed by Mr. Eliassen in that matter.

Receivers and trustees have a maximum computed on a commission basis; that is, in bankruptcy.

Q. And, in the discretion of the referee, the amount allowed to Receivers and trustees may be double, may it not, if the services seem to warrant it?

A. Only in cases where an order of court has authorized the Receiver or trustee to conduct the business of the bankrupt, not otherwise.

(No cross-examination.) [353]

TESTIMONY OF WALTON N. MOORE, FOR OBJECTING CREDITORS.

WALTON N. MOORE, called and sworn as a witness for the objecting creditors testified, in substance as follows:

Direct Examination by Mr. HENEY.

I am out of active business now; I am looking after my own private affairs. Until recently, I was connected with the Walton N. Moore Dry Goods Co. That company was a creditor of Pil-

(Testimony of Walton N. Moore.)

cher & Co., Inc., at the time of these receivership proceedings.

I was a member of the New York Committee that was looking after the affairs of the creditors of Pilcher & Co. and I was chairman of the local committee. The local committee was confined to creditors in San Francisco. The amount of the claim of our firm was something like \$30,000, or thereabouts.

I attended the meeting of the Creditors' Committee in New York City. That was after the appointment of the Receiver. William Fraser was chairman of the Creditors' Committee. I was not present at the meeting of creditors at which this committee was selected. After I became a member of the committee, I kept in touch with the chairman of the committee by very frequent exchange of letters and telegrams.

My connection with the Board of Trade of San Francisco was that my company was a member of the Board of Trade. I was not the president of the Board of Trade; I did not occupy any office in the Board of Trade.

The Board of Trade has been handling the bankruptcy matters and the receivership matters in San Francisco for the members of the Board. Practically every wholesaler and manufacturer in San Francisco is a member of the Board of Trade. The Board of Trade handles practically all of the problems of this kind for its membership.

(Testimony of Walton N. Moore.)

Q. Do you know how they are equipped for the management of it?

A. Very excellently. They have a trained force of clerks, and of adjusters, and they have a legal department.

I conducted the business of the Walton N. Moore Dry Goods [354] Company from its organization in 1906 up to last November. Prior to 1906, I was in the wholesale dry goods business in Kansas City, Mo. I came to California in 1906. I was in that business in Kansas City, Mo., ten or fifteen years. That was a corporation; I was secretary and treasurer; I had charge of the office and the finances.

With the Walton N. Moore Dry Goods Co., I kept in touch with the finances and the bookkeeping of that concern, but not with the same detail as previously. In later years, when the business got very large, I had a secretary and treasurer, and an office manager, to look after the detail of it, but I was in close touch with it all the time.

I have been interested, as a creditor, in a great many receiverships that were handled here in San Francisco; practically all of them were handled through the Board of Trade,—I think all of them.

Q. Did you keep in touch with them enough to know whether or not expert accountants were employed in connection with them?

A. I never heard of any expert accountants until this receivership, that I can recall, unless it involves some intricate question of accounting. I

(Testimony of Walton N. Moore.)

think there was one case of that kind where they called in expert accountants to decipher a very much confused set of books, and try to make something out of them. That was the only case I ever knew where an expert accountant was found necessary.

From my experience in business, and in having books kept in business, I would say that it was quite unnecessary to have an expert accountant to take care of the books of the receivership. I think you could get a very competent bookkeeper for that purpose, for about \$200 a month,—not over \$250.

On December 8, 1926, I received a telegram, of which a copy is now shown to me. I had just returned from New York. I had been back there and had attended a meeting of the Creditors' Committee. I had been in conference with Mr. Fraser who was chairman of the [355] committee.

(Thereupon, the telegram referred to, and which had already been offered and received in evidence was read into the record as follows:)

“Dec. 8th, 1926.

Mr. Walton N. Moore,
c/o Walton N. Moore D. G. Co.,
San Francisco, Cal.

Judge Hand last evening signed order directing receivers to pay creditors forty per cent STOP Receivers applied for partial allowance Ten Thousand to be equally divided STOP Ernst applied for partial allowance of Ten Thousand STOP Judge Hand invited suggestions from Committee

(Testimony of Walton N. Moore.)

After consultation we told him that without knowing what allowance Lieurance and his counsel would seek in Western jurisdiction Committee was not in position to make recommendation STOP Ernst tells us that he expects to apply for similar amount in final payment STOP What is your opinion on Ernst & Gotthold claims We feel Lieurance should not receive New York compensation unless figured in amount to be received on Coast STOP Please get in touch with Love see Lieurance and Eliassen find out if possible what charges will be STOP Advise results by wire because we want to include your views in recommendation to Judge Hand.

WILLIAM FRASER."

After receiving that telegram, and for the purpose of carrying out the suggestion contained in it, I got in touch with Mr. Kirk, of the Board of Trade, and also with Mr. Lieurance, and perhaps through him with Mr. Eliassen, at any rate we arranged a conference at the Board of Trade for, I think, the same day. Mr. Lieurance and Mr. Eliassen came by my office on Mission Street, and we went together to Mr. Kirk's office in the Board of Trade, where the conference was held.

I have no independent recollection of the date on which that conference was held. There was another conference later; this was the first conference. At the time of this conference, Mr. Lieurance and Mr. Eliassen came to my store and we walked over together to Mr. Kirk's office.

(Testimony of Walton N. Moore.)

On the way over, we had a discussion about the proposition of the conference. I would not undertake to divide what was said as between the time we were walking over there and what was said at the conference proper. I know that the subject was completely and [356] fully discussed. There was doubtless some preliminary discussion of the subject with Mr. Lieurance and Mr. Eliassen on the way over. How to divide it as between that period and what took place in Mr. Kirk's presence I would not undertake to do it. I know that the trend of the conversation was along the lines of this telegram that had been received, and an explanation of why the conference was to be held.

(The witness was asked to state what each of the parties said at the conference in Mr. Kirk's office, and answered as follows:)

Every man present there said at some point in the conference that the application that had been made for fees in New York was outrageously high and should not be allowed. Being in agreement on that, and Mr. Kirk and I taking the attitude with these gentlemen as being consistent with their expressions of opinion regarding the New York application, we assumed—

Mr. CROSBY.—Just a moment. That is an assumption. Let us have just what was said.

Mr. HENEY.—Yes, tell us just what was said.

A. Their statement was that there would be no trouble about reaching an agreement between the representatives of the creditors and themselves as

(Testimony of Walton N. Moore.)

to their fees, and that they regarded the amounts asked for in New York as excessive.

While I was there, Mr. Kirk dictated a telegram; he did the dictating, and we all criticized it, and finally reached an agreement as to what should be sent.

Q. The telegram is already in evidence. It is dated December 9, 1926, from Walton N. Moore to William Fraser. I will ask you to look at this, Mr. Moore, and state, if you can, what was said on the subject by the various parties present.

A. I remember that Mr. Eliassen was particularly critical of the amount asked for as attorneys fees by the New York attorneys. He said that they had not done any work that would justify such fees, [357] and that the division of Receivers' fees should be more favorable to Mr. Lieurance than a 50-50 division. That was the substance of the remarks made both by Mr. Eliassen and Mr. Lieurance. Everybody was in accord about it.

Q. Do you mean that you said the same thing?

A. Yes.

Q. Did Mr. Kirk say the same thing?

A. Mr. Kirk said the same thing. We were all in agreement. As a result of that agreement this telegram was dictated, approved by both Mr. Eliassen and Mr. Lieurance, both of them participating in its formation and it was sent in my name.

Q. This telegram, Mr. Moore, contains this statement: "I earnestly request that the question of

(Testimony of Walton N. Moore.)

such allowances be deferred for the time being until Receivers and attorneys and committee can exchange views and come to some agreement concerning gross amounts to be asked for." Can you recall what, if anything was said about that particular part of the telegram?

A. That was so as to avoid confusion and bring about a proper distribution, either an agreement on the part of the western courts to allow the whole fee to be fixed by Judge Hand, or by such division as among the various jurisdictions as would not be conflicting one with the other, and result in either an excessive or an insufficient fee.

Q. What, if anything, was said at that time about which allowances were to be deferred?

A. All allowances. We were asking specifically that Judge Hand defer making any allowances there; and, of course, there had been no application for allowances out in the west, here, that we knew of.

There was nothing said at that time about an application being made out here immediately.

Q. Was there anything said about Lieurance and Eliassen leaving to the Courts out here to fix the amount?

A. After conference with and agreement with the creditors, or an [358] opportunity to the creditors to be present and be heard. It all contemplated an agreement as between the creditors, and the receivers, and the attorneys.

On the same day that I sent that telegram or permitted it to be sent after it was formulated

(Testimony of Walton N. Moore.)

there, I wrote a letter to Mr. Fraser confirming the telegram. Mr. Kirk did not assist me in the formulation of that letter. I wrote it in my store, at the office.

Letter just referred to was offered and received in evidence and read into the record, as follows:

“December 10, 1926.

Mr. Wm. Fraser,
c/o J. P. Stevens & Company,
23 Thomas Street,
New York City, N. Y.

Dear Sir:

I arrived yesterday from New York and your telegram of the 8th received the previous day was called to my attention. Very soon thereafter I was called over the telephone by Mr. Lieurance who with his attorney desired a conference with me. I therefore telegraphed you a day message advising you of the receipt of your telegram and stating that I would more fully answer it by night-letter after the conference. This I did, as per carbon copy herewith enclosed.

It is a difficult matter for me to reach any conclusion of my own as to what would be a fair compensation to the receivers and their attorneys in the Pilcher case. What contact I have had with it with the New York attorneys involved has left me with the impression that it will be their desire to get every dollar that the Court and the creditors will allow them to take. I do not think that it now

is the time to fix the final compensation and inasmuch as nearly all of the work has been done in the ancillary jurisdictions it seems to me that the judges of these courts are better able to determine the value of the services rendered than Judge Hand could be.

I had a conference yesterday with Lieurance and his attorney, Eliassen, together with the attorney of the San Francisco Board of Trade. I was impressed with the fairness of Lieurance's attitude. He expressed a willingness to submit the entire matter to the judges of the ancillary courts to fix the fees. Nearly all of the work has been done out here where the property was located and the results produced by Lieurance have been very creditable. It seems to me that a statement of facts might be prepared by the attorneys of Mr. Lieurance for submission to each of the ancillary courts, which could have the approval of the creditors as to its correctness, which could be submitted to each of the courts with the request that the judges thereof fix the compensation for the work done in his jurisdiction. When these allowances have been made, the whole could then be submitted to Judge Hand with a similar statement and he can then make such additional allowance, if any, as he thinks proper. I am in hopes that correspondence between the receivers and the attorneys may result in some mutual under-

standing which will avoid conflict, giving them what is their just due and no more.

Very truly yours,
CHAIRMAN OF THE BOARD.

WNM/WH." [359]

(It was stated by counsel that the "night-letter" referred to in the foregoing letter, and a carbon copy of which was inclosed with the letter, was the telegram of December 9, 1926, dictated by Mr. Kirk in the presence of Mr. Moore, Mr. Lieurance, and Mr. Eliassen, as hereinbefore stated; and counsel for the objecting creditors stated that the letter was introduced "partly to show Mr. Moore's understanding of what the telegram was intended to convey.")

(A letter from William Fraser to Walton N. Moore, dated December 9, 1926, was then introduced in evidence and read into the record as follows:)

"New York, Dec. 9th, 1926.

Mr. Walton N. Moore,
c/o Walton N. Moore D. G. Co.,
San Francisco, Cal.

Dear Mr. Moore:

We sent you telegram as per enclosed copy relative to the desire of the receivers to be paid \$10,000 as a partial allowance in New York City, which sum we are advised, has been agreed by the receivers should be equally split with the understanding that any allowance that Lieurance gets in the West should be likewise equally divided.

Mr. Ernst also made application for a partial allowance of \$10,000.00, and in answer to a question

of one of the Committee members stated that this was predicated on a further application for an additional and final allowance later on of \$10,000.00 more.

The Committee does not know how to advise Judge Hand because we do not know what will be the amount of the similar expenses in the West. We do think in both instances the amount asked for is too high. We, furthermore, do not feel that Lieurance should be counted in the fee in New York unless any amount he receives here should go towards reducing his claim in the Western Jurisdiction.

As a spokesman for the Committee I told the Judge that the Creditors Committee wanted to be fair, and felt that both the receivers and their counsel should receive compensation commensurate with the work that they had done. Judge Hand, himself, apparently feels that he has not enough information along the lines just suggested, regarding the possibility of Lieurance and Eliassen's fees, to enable him to act in the manner in which he would like to do.

Ernst told me over the telephone yesterday that he had received a wire from Lieurance stating that as far as he was concerned he did not intend to ask for any definite amount of compensation, but intended to leave it absolutely to the fairness of the Judge. I do not feel that I wish to criticize Mr. Lieurance's attitude because I have a very high regard for his ability and other qualities about

which I have been so favorably informed, but I do feel that he should appreciate the Committee's situation and their desire to be of service not only to the Court, but to the creditors as well. He might very suitably go into this matter with you and Mr. Love and arrive at some definite conclusion, which will help us to properly fulfill our obligations to Judge Hand. [360]

It is not usual for a Judge in Judge Hand's position to ask for recommendation from the Creditors Committee. He is under no legal obligations to do so, and in fact in this and other jurisdiction it is most unusual for a Judge to permit the Creditors Committee to have any hand in the proceedings by which he reaches his ultimate decision.

We, therefore, feel that if Mr. Lieurance knew these circumstances and gets the proper picture of the sympathetic attitude of the New York members of the Creditors Committee, that he will be willing to proceed along the lines which I have indicated in this letter and in my telegram.

I would also like very much to have you express yourself very fully regarding the fees which have been asked for, both by the co-receivers and by Mr. Ernst. While we wish to be fair, we think they are too high.

Will you please give me the benefit of your advice in the situation?

Sincerely yours,

WM. FRASER."

Enc.

(Testimony of Walton N. Moore.)

Q. When you got that letter, Mr. Moore, what did you do?

A. My recollection now is that I telephoned Mr. Lieurance at his office and learned that he and Mr. Eliassen had gone north. I took this letter to Mr. Kirk and advised him of the information that I had received that these men had gone north. I said, "It seems very strange, I don't know of any necessity for their going North, except on the matter of their fees, and notwithstanding their agreement made with us here the other day I have my suspicions about it, and we ought to be represented at any application for fees they are going to make; the fact that they have left town immediately after that conference with us in the manner in which they have makes me suspicious of their good intentions." Mr. Kirk could hardly agree with it, but finally sent a telegram. This is the telegram that was sent that day.

Q. This telegram is addressed to "To E. R. Eliassen or A. F. Lieurance, Hotel Washington, Seattle, Washington." Where did you get the address?

A. I think that was given us by the secretary or by the stenographer in Mr. Eliassen's office. That is my recollection of it.

(Counsel for the objecting creditors then called attention [361] to the fact that the telegram which was put in evidence "was addressed to these gentlemen on the train, certain seats, which seats had been secured for them by the hotel; thereupon, counsel for the objecting creditors temporarily sus-

(Testimony of A. F. Lieurance.)

pended the direct examination of Mr. Moore, and propounded certain questions to Mr. Lieurance, witness for the plaintiffs.)

TESTIMONY OF A. F. LIEURANCE, FOR
PLAINTIFFS (RECALLED—CROSS-EX-
AMINATION).

Cross-examination of Witness LIEURANCE Re-
sumed by Mr. HENEY.

I don't know whether this telegram was forwarded to us by the hotel or not; but it was handed to us by the conductor. I have the original telegram that was handed to me; it is the one that is in evidence here. (The Master directed attention to the fact that it was read in evidence but that the telegram was not "here physically.")

TESTIMONY OF WALTON N. MOORE, FOR
OBJECTING CREDITORS (RECALLED).

Direct Examination of Mr. MOORE by Mr. HE-
NEY (Resumed).

This is a carbon copy of the telegram, written in the office. I did not know the seats that they were going to occupy on the train. I didn't know they were on the train. I supposed they were in Seattle. (Questioned by Mr. CROSBY.)

Mr. Kirk signed that telegram but I was present when it was sent; Mr. Kirk sent it.

Direct Examination of Witness by Mr. HENEY
(Resumed).

Mr. Kirk dictated that telegram while I was there

(Testimony of A. F. Lieurance.)

in his office, and as a result of the talk that I had with him at that time.

TESTIMONY OF A. F. LIEURANCE, FOR
PLAINTIFFS (RECALLED—CROSS EX-
AMINATION).

Cross-examination of Witness LIEURANCE by
Mr. HENEY (Resumed).

I think the telegram came to us through the hotel. We had been there over night. The porter, no doubt, had gotten our reservations for us. My office here knew the hotel at which I was going to stop. I did not know what seats in the car I was going to occupy. The hotel undoubtedly did that.

(The telegram referred to was then introduced in evidence and read into the record as follows:)

[362]

“December 15, 1926.

To E. R. Eliassen or A. F. Lieurance, Hotel Wash-
ington, Seattle, Wash.

In view of communication received by Walton Moore from Frazier Chairman New York Creditors Committee, it is highly desirable that you should not apply for receiver's allowances or attorneys fees in western jurisdictions until whole subject matter can be again discussed here upon your return.

JOSEPH KIRK.”

TESTIMONY OF WALTON N. MOORE, FOR
OBJECTING CREDITORS (RECALLED).

Direct Examination of the Witness MOORE by Mr.
HENEY (Resumed).

Referring to the telegram dated December 16, 1926, from Mr. Lieurance to myself, telling me that the work had been completed and what had occurred in the north, and which telegram has already been read into the record: I received that telegram on December 16; I assume it was that date.

Before receiving that telegram, I had not received any information from any source, that the court here in San Francisco had already made an allowance to Mr. Lieurance and Mr. Eliassen. I had not received any information from any source that the court at Spokane had done so,—or at Seattle, or at Portland.

When I got that telegram I sent a telegram to William Fraser on that same day. I also wrote a letter to Mr. Lieurance on the same day, and enclosed a copy of this telegram to William Fraser.

(Thereupon, the letter and telegram last referred to were introduced in evidence and read into the record as follows:)

“December 16, 1926.

Mr. A. F. Lieurance,

Central National Bank Bldg., Oakland, Calif.

Dear Sir:

I was astounded at the contents of your telegram of even date from Portland concerning allowances to receivers and attorneys in this Pilcher case. I know of nothing that will more clearly express my feeling on this subject than the telegram which I have sent to Mr. Wm. Fraser, Chairman of the Creditors' Committee in New York, of which I am enclosing herewith a copy.

To put it mildly, I am astounded at the action of yourself and Mr. Eliassen in proceeding with your applications in this matter without any agreement with creditors and without creditors being heard by the Court.

WNM/WH

Yours truly,”

The telegram reads as follows: [363]

“December sixteenth 1926

William Fraser, c/o J. P. Stevens Co.,

23 Thomas Street, New York City

Telegram received Stop To my utter astonishment I received following telegram today from Receiver Lieurance at Portland Quote Work completed here this morning Stop Orders obtained all jurisdictions pay forty percent dividends Stop Allowance to Attorney California Ten Thousand Spokane Twenty Five Hundred Seattle Five Thousand Portland Ten Thousand Total Twenty seven

(Testimony of Walton N. Moore.)

Thousand Five Hundred Stop Allowance to Receivers California Ten Thousand divided seventy five and twenty five percent Spokane Five Thousand division to be made at final hearing Seattle Thirteen Thousand divided Twelve and one Portland Fourteen Thousand Five Hundred divided Thirteen five and one Total Forty two thousand five hundred Stop Phoned above information to Mr. Love this morning Stop Will be home Saturday End Quote Receiver Lieurance and his attorney were present when telegram of December Ninth to you was prepared and consented thereto Stop In view of this fact we consider applications for allowances in Western Jurisdiction which were made without any notice to Creditors' Committee here as being unwarranted and in violation of understanding stated in telegram of December ninth. Stop We contemplate making immediate application to Western Courts to set aside the allowances as excessive and exorbitant and to give creditors full opportunity of being heard with respect to the allowances Stop Will your committee join in making this application or request to Western Courts and bear their share of expenses and fees incident thereto.

WALTON N. MOORE."

Direct Examination of the Witness MOORE by Mr. HENEY (Resumed).

On the same day, I wrote a letter to Mr. Fraser, and this is a carbon copy of it. I don't know whether I sent a copy of that to Mr. Lieurance.

(Thereupon, the letter last mentioned was introduced in evidence and read into the record, as follows:)

“December 16, 1926.

Mr. Wm. Fraser, Chairman,
J. P. Stevens & Co., 23 Thomas St.,
New York City, N. Y.

Dear Sir:

I am enclosing herewith a copy of a night-letter just sent you. It is so complete in itself that it leaves but little to be said here.

The action of Lieurance and his attorney Eliassen in appearing in these various courts without any agreement with the creditors is astounding to me and I did not know of it until I received Lieurance's telegram today which is quoted in mine to you.

The only thing omitted in the telegram which has already been sent is an explanation to you of the division of receivers allowances referred to in Lieurance telegram. In our recent conference he contended that he was entitled to more compensation than Gotthold and he has secured an order from the Court dividing the [364] receiver's fee between himself and Gotthold as indicated by his telegram. I am sending you an additional telegram in explanation of this, of which a copy is also enclosed.

You will note that the total of the allowances made is \$70,000, which is not final and this will be in addition to whatever allowances are made in the New

(Testimony of Walton N. Moore.)

York Courts. I hope you and the Committee will agree with me that this action should be contested.

WNM/WH

Yours truly,"

Direct Examination of Witness MOORE by Mr. HENEY (Resumed).

I recall the second conference between Mr. Kirk and myself, and Mr. Lieurance and Mr. Eliassen, and which was after these allowances had been made, referred to in the telegrams just read into the record. I cannot fix the exact date of that conference. It was very soon after December 16. It occurred in Mr. Kirk's office. Mr. Kirk, Mr. Eliassen, Mr. Lieurance and myself were present.

Q. State what occurred, and what was said there by each of the parties, the substance of it if you cannot give the exact words.

A. We asked an explanation of why, in the face of the agreement we had had at the previous conference, these men had slipped off and without our knowledge had secured an allowance from the Courts without any representation of the creditors, and far in excess of any amounts that we had contemplated, or that they, themselves had expressed themselves as thinking sufficient in the case of the application before Judge Hand in New York. There was much said there, Mr. Heney, some of it would not bear repetition, some things that I said would not bear repetition.

Q. That is to say, all parties got mad?

(Testimony of Walton N. Moore.)

A. I think I expressed myself and my conviction of their actions about as freely as I ever did anything. I told them, I think, it was crooked.

There was something said about reducing the amount. We tried to get them to nullify their action and start all over again. They would not agree to that. Then we tried to get them to reduce the amount of the allowances. [365]

Q. What was said about reducing it?

A. There was a lot of conversation about what they were entitled to. It became evident that there could be no agreement. They said that they had gotten these allowances and they were going to hang on to them.

Q. Who said that?

A. Mr. Eliassen. We told him that we would make a contest of the matter, we would make a statement of the facts to the Court and ask for a revision.

I do not recall anything that was said about having any further conference. On that same day, after this second conference, I sent to Mr. Fraser the telegram, a carbon copy of which is shown to me.

Referring to the second conference above mentioned: Mr. Lieurance said he would take the question of the revisions of these allowances under consideration, in the light of our attitude, and he was to communicate with Mr. Kirk.

The telegram to Mr. Fraser above referred to, was sent by me the same day upon which the second conference was held, I cannot recall the hour of the day.

(Testimony of Walton N. Moore.)

(The telegram was mentioned as December 20; and the Master observed that it conformed with Mr. Eliassen's statement, and fixed the date of the second conference as being December 20; to which counsel for the objecting creditors assented.)

The telegram last mentioned was offered and received in evidence, and read into the record, as follows:)

“December Twentieth 1926

William Fraser, c/o J. P. Stevens Co.,

23 Thomas Street, New York City.

Telegram eighteenth received Stop Receiver Lieurance and Attorney Eliassen sought interview with me today regarding their allowances and I notified them that unless allowances ordered were immediately set aside creditors committee here would employ competent counsel and petition courts to set them aside Stop They have asked until tomorrow morning to answer when I will again wire.

WALTON N. MOORE.”

Q. Did you get any answer the following morning, Mr. Moore? [366]

A. Well, I cannot remember about that. If it came it came through Mr. Kirk. The negotiations after that were carried on by Mr. Kirk. I do not recall.

Q. In that conference which you have just been testifying about, did either Mr. Lieurance or Mr. Eliassen state that Mr. Kirk knew, that they had told him that they were going to make application for allowances?

(Testimony of Walton N. Moore.)

A. No, not that I know of, because I know he did not know of it.

Mr. CROSBY.—I move to strike out that latter part of the answer as the conclusion of the witness.

The MASTER.—The last part of the answer will go out; the rest of it stands.

Mr. HENEY.—Q. Can you state positively one way or the other, did either Mr. Lieurance or Mr. Eliassen make that statement in the presence of Mr. Kirk, that Mr. Eliassen or Mr. Lieurance had told him in advance that they were going to make those applications for allowances, or that in substance?

A. They did not make that statement in my presence.

Q. Were you present during that entire conference? A. Yes.

The MASTER.—This is the second conference, is it?

Mr. HENEY.—Yes, the second conference, your Honor.

Cross-examination by Mr. CROSBY.

Q. Mr. Moore, I am showing you what purports to be a copy of the telegram of December 9, that you sent to William Fraser care of J. P. Stevens Co. Beginning the fourth from the last line, I call your attention to this: "As you now know from yesterday's telegram from Lieurance to Gotthold and attorneys McManus, Ernst & Ernst, Receiver Lieurance and the attorney in the ancillary jurisdictions

(Testimony of Walton N. Moore.)

intend leaving amount of allowance to the discretion of ancillary courts." Did you dictate that?

A. No.

Q. That was done by Mr. Lieurance, wasn't it?

A. That was dictated in Mr. Lieurance's presence by Mr. Kirk. We [367] all participated in the dictation of this telegram, made suggestions here and there. I think that was included in view of Mr. Lieurance's statement to us that he had been in communication with Gotthold and McManus.

I think that latter part of the telegram was suggested by Mr. Lieurance.

I have been a member of the eastern Creditors' Committee, in this matter, from its inception. My firm is a member of the San Francisco Board of Trade.

I was chairman of a Creditors' Committee here, composed of all of the San Francisco creditors, who were members of the San Francisco Board of Trade, —a group of creditors having to do with this particular Pilcher matter. I don't remember now the personnel of that committee. It is the practice of the Board of Trade to call a meeting of creditors when a thing like this first occurs; at that meeting a committee is appointed to handle the matter. That committee is usually composed of the three, or four, or five largest creditors; I was the chairman appointed in this case.

Of course, I was interested in the matter of the claim of my company; and, likewise, was commonly interested as a member of the Committee in the

(Testimony of Walton N. Moore.)

general welfare of the estate. I may say this, however, that at the time of these matters here—this correspondence and these conference referred to—I no longer had any personal interest, any personal financial interest in it. At that time I had sold my business and had no personal financial interest in the result of the matter. I was only acting for the creditors.

I did not go to New York on account of the Pilcher business; I was in New York on other business, and while there attended a meeting of this committee.

I don't recall that I knew anybody connected with the Pilcher Company except Pilcher. On this particular trip to New York I met Brownstone who was a large stockholder. I took up personally with [368] him the claim of my institution. He had previously guaranteed it; I would have to have the books to refresh my memory as to the time when he guaranteed it; it was along in the late summer or early fall of 1926. It was not after the inception of the receivership; it was before the receivership. I have papers at the office which will determine definitely the date.

I don't remember whether, before I went to New York, I received from Mr. Lieurance word as to the time of a meeting of the eastern creditors; I may have done so; I learned of it after I got there through Mr. Fraser.

It is my best recollection now, that on this occasion of the meeting on the 9th of December in the

(Testimony of Walton N. Moore.)

office of the Board of Trade, I thought I remained in that meeting right up to the end. I understand there has been some evidence here to the contrary. My recollection is that Mr. Lieurance and Mr. Eliassen and I went out together and went down in the elevator together. That is my best recollection.

Q. In the second conference that you spoke of, is it not a fact that Mr. Eliassen and Mr. Lieurance suggested to you a revision of these allowances, and did you not say to Mr. Eliassen and to Mr. Lieurance "The time has passed for that now," or words to that effect?

A. No, I don't remember saying that.

Q. Would you say you did not say it?

A. I would say I didn't because that was not my point of view. I was anxious certainly to get a revision of these allowances.

Q. Would you say that they did not take up with you or attempt to take up with you the question of a revision of allowances?

A. It was taken up, it was discussed there; there is no question about it.

Q. Did you say that they refused to revise them?

A. They refused to do whatever we wanted done at the time. I don't remember just what our proposition was. They took our proposition under advisement and were to let us know the next day. [369]

Q. Was not your proposition one definite propo-

(Testimony of Walton N. Moore.)

sition, to nullify and set aside the allowances; Was not that your proposition, definite and complete?

A. Well, it certainly was at one time. I don't remember whether there was any modification of it. I don't remember what the modification may have been.

Redirect Examination by Mr. HENEY.

Q. Mr. Moore, on December 9, while you were in Mr. Kirk's office, did Mr. Eliassen at any time say that he intended to go out to Court here in San Francisco the next day and ask for an allowance for the Receiver's fees and the attorney's fees?

A. He did not.

Q. Did Mr. Lieurance make any such statement?

A. He did not. We had no idea that he contemplated anything of that kind.

Recross-examination by Mr. CROSBY.

The claim of our company against the Pilcher Company has not been paid in full to my knowledge. I don't know whether it has been or not; I am not in touch with things there now. But I think I can answer that now; we were not paid in full up to about a week or ten days ago; I was told it was not; in fact, I was asked to see him (Brownstone) when I go to New York; I am expecting to go to New York next week.

TESTIMONY OF JOSEPH KIRK, FOR OBJECTING CREDITORS.

JOSEPH KIRK, a witness called by the objecting creditors, was unable to attend because of serious illness; and the parties entered into a stipulation, in open court, embodying the facts to which Mr. Kirk would testify if present, and with the further stipulation that such statement of facts should be treated and considered as having the same effect as if Mr. Kirk had been present and had testified under oath to such facts. The proceedings upon the subject were as follows:

Mr. HENEY.—Your Honor, and Mr. Crosby, I am informed that [370] Mr. Kirk is quite ill, that he had an attack of angina pectoris last night, and that the doctor says he cannot come down here. I even thought that we might perhaps go out to his house and take his testimony out there, but I do not know that we can even do that.

Mr. CROSBY.—From what you said to me, Mr. Heney, I do not think it would be a safe thing to do, to go out to his house and disturb him, under the conditions.

Mr. HENEY.—Then I will avail myself of the offer you so generously made a while ago, Mr. Crosby.

Mr. CROSBY.—We made this suggestion, your Honor, that if Mr. Heney will state to us what he proposed to show by Mr. Kirk we might possibly be able to concede that if Mr. Kirk were here he

would so testify. That will save the delay that would necessarily be caused by reason of his illness in waiting for him to come down here. Could you make up just a little memorandum of the points, Mr. Heney?

Mr. HENEY.—Yes. I can state now from recollection that Mr. Kirk insists that there was not any talk in that conference on the 9th of December, there was not any talk about the petition for allowances being made on the following day, or at all, until after there had been a conference in which the creditors, and the attorneys, and the Receivers should endeavor to agree upon some sum; and that the talk about going out to court was entirely about the 40 per cent dividend and the order that Mr. Kirk wanted in regard to creditors.

In regard to the part that Mr. Moore testified to, as to the conversation leading up to that telegram, I will have to look up my notes on that subject, I haven't them here, because Mr. Kirk, being an attorney, I did not think I would have to have any notes to examine him from, and I could not state that accurately enough now.

Mr. CROSBY.—You state that if he were here his testimony would be along the line of Mr. Moore's statements, and tend to [371] support Mr. Moore's statements with relation to what occurred there at that meeting?

Mr. HENEY.—Yes. I remember about that telegram that they sent north, when Mr. Moore brought Mr. Kirk the letter from Mr. Fraser and

showed it to him, that Mr. Moore stated that he had learned through telephoning over to Mr. Lieurance's office that Mr. Lieurance and Mr. Eliassen had gone north, and that they were at the Washington Hotel, and that Mr. Moore expressed himself as Mr. Moore has testified here, that he was suspicious that they were trying to get attorney's fees and Receiver's fees, but that he, Kirk, did not think that they were attempting or would attempt to have an allowance made for attorney's fees or Receiver's fees, because he did not think they would violate what he understood to be the agreement.

Mr. CROSBY.—You say that Mr. Kirk goes so far as to admit that Mr. Eliassen and Mr. Lieurance were to be in court the next morning to present the request for the dividend and to file the stipulation that Mr. Kirk had sent to Mr. Lieurance, or to Mr. Eliassen, and to procure an order thereon?

Mr. HENEY.—I recollect distinctly about the stipulation and the order thereon, that they were to go out there for that. I am not dead sure about the 40 per cent dividend. It is running through my mind that he said something to me about the 40 per cent dividend, but I cannot recollect just what it is.

The MASTER.—I don't think that particular matter is of great importance. I should assume that the creditors were anxious to get the dividend as early as possible.

Mr. HENEY.—Yes, that is undoubtedly so.

(Testimony of Edward R. Eliassen.)

Mr. CROSBY.—Your Honor, we will stipulate that if Mr. Kirk were here the testimony that he would give would be what Mr. Heney has now related he would state if he were here. We accept that and permit it to go into the record in this manner by reason of Mr. [372] Kirk's inability to be present, due to his illness, and in the interest of time, and a desire to get this matter before your Honor at the earliest possible moment.

The MASTER.—Is that satisfactory?

Mr. HENEY.—Yes, that is satisfactory, your Honor.

TESTIMONY OF EDWARD R. ELIASSEN,
FOR PLAINTIFFS (RECALLED—FURTHER
CROSS-EXAMINATION).

EDWARD R. ELIASSEN, a witness for the plaintiffs, was recalled by counsel for the objecting creditors and testified, in substance, upon: Further Cross-examination by Mr. Heney.

The letter now shown me is a carbon copy of a letter addressed to me, dated November 24, 1926. I cannot state just when I received that, Mr. Heney, but I have no doubt I received it. I do know that accompanying that letter was a draft of a suggested stipulation which he desired to have signed by Mr. Lieurance and by myself, stipulating that an order might be obtained herein in this court finding that the filing of certain creditors' claims at New York

(Testimony of Edward R. Eliassen.)

would be deemed as having been filed with the Receivers here. That is my recollection of it.

On the day that we went over to Mr. Kirk's office, on December 9th, and had that conference, I brought with me that letter and that stipulation, and the proposed form of order. When the telegram had been finally written and Mr. Moore had left—Mr. Moore left before the meeting was over, and suggested that Mr. Kirk could sign his name to the telegram; he did not wait to see the final finished product. I then took out this stipulation and draft of order; and told Mr. Kirk that the stipulation was agreeable to us, and the form of order was also agreeable to us, and I said I would sign that right here. That was done. Then we had the further conversation that I testified about, and suggested that so long as he had said he would not be there unless I wanted him—that means in [373] *in court* the following morning—I would take that stipulation out and ask the Court for an order, and would see that the stipulation and the order were filed. He then thanked me and said that that was fine. My recollection is I presented that to Judge St. Sure and obtained the order, and filed both the stipulation and the order.

(After some discussion between the Court and counsel for the objecting creditors as to whether Mr. Kirk was the attorney of record, the witness further testified:)

I don't recall if he was the attorney of record.

(Testimony of Edward R. Eliassen.)

We knew, of course, and it was well-known, that he represented certain creditors.

(Copies of the stipulation and the order referred to were shown to the witness, who further testified:)

I have just examined the carbon copy of the order based upon the stipulation, and I am satisfied that the original is the instrument that I took out with the stipulation.

(The Court then suggested that the copies of the documents just mentioned were not necessary, because the originals were on file in the case. Thereupon, the letter above mentioned by the witness was introduced in evidence and read into the record as follows:)

“November 24, 1926.

Edward R. Eliassen, Esq.,

Attorney at Law, Central Bank Building,
Oakland, California.

Dear Sir: Re R. A. Pilcher & Co.

In this matter referring to telephone conversation had with you a few days ago about the presentation or filing of the claims we represent, I am enclosing the suggested form of stipulation which I think should be executed in duplicate by Receiver Lieurance and yourself as his Attorney and return to me in due course for signing as Attorney for the listed creditors, whereupon one of the agreements will be sent to you for your files.

(Testimony of Edward R. Eliassen.)

The proposed order of court, as you will see follows the wording of the stipulation.

Yours truly,

JK/BS

_____,
Attorney."

Further Cross-examination of the Witness ELIASSEN by Mr. HENEY (Resumed).

Referring to a carbon copy of a letter dated December 16, [374] 1926, addressed to me, from Joseph Kirk: I received the original of that letter.

(The letter last mentioned was introduced in evidence, and read into the record; the date of the letter is December 16, 1926, and the body of the letter reads as follows:)

"E. R. Eliassen, Esq.,

Attorney at Law,

Oakland, California.

Dear sir: Re: R. A. Pilcher Co.

In this matter, the enclosed copies of telegrams exchanged between Mr. Moore and Mr. Fraser explain themselves.

I am absolutely astounded, in view of the contents of the telegram of December 9th that you and Receiver Lieurance should have gone to the different Courts in the absence of any representative of creditors and secured enormous allowances and fees to him and to you.

That telegram contained unmistakable language to the effect that the question of allowances should be deferred until the Receivers and Attorneys and

(Testimony of Edward R. Eliassen.)

Committees could exchange views and come to some agreement concerning the gross amounts to be asked for.

Very truly yours,

JK:D

_____,
Attorney.”

That letter must have reached my office, while I was still absent in the north. Mrs. Williams was employed in my office at that time, and that is her signature upon that acknowledgment. As soon as I got back, she showed me the letter from Mr. Kirk.

(The “acknowledgment” above mentioned, was introduced in evidence, and read into the record; it is on the printed letter-head of Mr. Eliassen and reads as follows:)

“December 18th, 1926.

Board of Trade,
444 Market Street,
San Francisco, California.

Dear Sir:

Your letter of December 16th received. Mr. Eliassen is expected back shortly to his office and all matters will receive his prompt attention.

Yours very truly,
J. D. WILLIAMS,
Secretary.”

I don't recall that there was a written reply to that letter. I know that we telephoned to Mr. Kirk and arranged an interview. [375] This was after we returned.

(Testimony of Edward R. Eliassen.)

Q. Were you ever employed as an attorney for a Receiver before this occasion, Mr. Eliassen?

A. No, only in bankruptcy matters.

Q. These attorneys in the north, whom it is averred here were to be paid \$2600 by you, what were they employed to do?

A. They were to act as local counsel. Mr. Stott was to take care of all the things that required immediate attention, and the things that it was thought it would not be worth my while to go up to attend to.

Q. That was during the entire period?

A. Oh, yes. Nelson Anderson was employed to resist an order to show cause on the claim of C. W. Kelly. He represented me in other matters. His fee was only nominal; I paid him \$100. The man in Spokane was paid his bill, it was only \$50. I have not paid Plowden and Stott. Mr. Stott represented me in a number of matters.

While I was in Seattle, at the time I was about to file my petition for allowance for Receiver's fees and attorney's fees, and before going to court, I had a talk with Mr. Love.

Q. Did Mr. Love tell you that in his opinion \$75,000 for all the attorneys and both Receivers in all jurisdictions, a total of \$75,000, was in his opinion as much as it ought to be?

A. I think he did mention that, Mr. Heney. I recall at the same time that we told him we were going to go into Judge Neterer's court at two o'clock in the afternoon and asked him if he would be there. I might say, too, Mr. Heney, that he felt

(Testimony of Edward R. Eliassen.)

that the fees asked for in New York were out of all reason. We discussed at some length the entire administration and the fact that the stores were all on the coast, and the business of the receivership was being done here. Mr. Love did the greater part of the talking, I think.

Q. Do you know from your personal experience that the fees of attorneys, and of office assistants, and of rents, and attorney's fees, and desirable quarters in New York City, all cost considerably higher than in San Francisco and in Oakland?
[376]

A. No, I don't know that.

Q. Do you know as to attorney's fees?

A. No, I do not. I have an idea that attorneys charge enough there in New York.

I know nothing about rents there. My idea has been for some time that the rents in Oakland are very high. I know that very desirable space here in San Francisco can be gotten for less than it can be gotten in desirable buildings over there.

I don't know anything about New York. I have been there merely passing through either on business or on pleasure.

Q. An effort was made on behalf of the creditors to reach an amicable agreement as to the total fees to be paid to yourself and Mr. Lieurance, was there not, after the matter of the reduction of those fees was consummated, and during those negotiations?

A. Yes. I said to you, as you will recall, that I wanted harmony, and did not like any friction of

(Testimony of Edward R. Eliassen.)

any kind, and that I was always willing to meet people across the board and try to adjust matters, and that is still my statement.

Q. That is correct.

A. I try to practice law that way, Mr. Heney, I try to keep people out of court.

Q. Did you also say that Mr. Lieurance was somewhat—I don't mean in your exact language, Mr. Eliassen, but the effect of it was that he was somewhat obdurate about it, that he did not want to negotiate?

A. I said I did not believe that he would go as far as I would. That was the substance of it. As a matter of fact, I did bring him over to your office. You will recall that.

Q. Yes.

A. I said I was satisfied he would be glad to meet you and would be glad to talk it over.

Q. And I made efforts right within the last week of your going up to Portland on the final account, and within two days before you left, to have you get him over to my office again, if possible, and to see if we could not reach an agreement.

A. Yes, you asked me that, and I said I was satisfied it had gone [377] so far that we could not get him over.

Redirect Examination by Mr. CROSBY.

Q. At that meeting on December 9, that has been referred to here, where you, and Mr. Lieurance, and Mr. Moore, and Mr. Kirk were present, was any-

(Testimony of Edward R. Eliassen.)

thing said by anyone about preparing any statements of the amount of allowances to be asked for, which statement would be submitted to or taken up with the creditors and by them agreed upon?

A. No, sir.

Mr. Moore did not leave that building with myself and Mr. Lieurance on that occasion. I am very positive about that. Mr. Moore left before the telegram was sent. The stenographer Mr. Kirk was using, brought in several drafts, and amended drafts of the telegram, and when the final draft was dictated there were very few and very slight changes to the final draft, and Mr. Moore then took out his watch and said, "Well, now, that is all right, it is agreeable all round, I have to hurry, and you, Mr. Kirk, can sign my name to that telegram," and he left. It was after that that I then opened my brief-case and brought out this stipulation and this order which has been referred to, and which Mr. Kirk desired to have signed concerning the claims.

It was after Mr. Moore left that I had the conversation with Mr. Kirk that I have related concerning which he has not agreed.

The understanding was that the Courts were to fix the amounts of the allowances. We wanted to know when we should seek them, and we were told by Mr. Kirk the sooner the better. He wanted to know when we could do it, and he suggested that we go out to court the following morning. Then I asked him if he wanted to be there, and he said he would be there if I desired his presence, but he did

(Testimony of Edward R. Eliassen.)

not think it was necessary. It was then that I volunteered to take the stipulation out with the draft of the proposed order and have the two documents signed and filed. He also asked when we could go north, and we said we could arrange to do that as quickly after that as possible. [378]

(Counsel for the objecting creditors then stated that in view of the above testimony of the witness, he desired to show it to Mr. Kirk after it was transcribed with leave to bring in Mr. Kirk's statement in regard to it; counsel for the plaintiffs stated that there was no objection to that; and thereupon the witness testified further upon the subject as follows:)

I will state here that when we had that interview after our return from the North he denied absolutely that that took place.

(It was then stipulated between counsel for the respective parties that if Mr. Kirk were present he would deny the matters to which Mr. Eliassen has just testified; in other words that Mr. Kirk would corroborate Mr. Moore's testimony.

Thereupon, the Master inquired what would be Mr. Kirk's testimony as to Mr. Moore's presence. Counsel for the objecting creditors stated that he did not know; the witness Eliassen stated that he did not think Mr. Kirk would corroborate Mr. Moore on that point; that he thought Mr. Moore was mistaken as to that.

It was then stipulated between the parties that Grant H. Wren, one of the counsel for the objecting

(Testimony of Edward R. Eliassen.)

creditors would ascertain Mr. Kirk's statement on the subject and that the same would be communicated to the Court and counsel, and become a part of the record in the case.

Thereafter, pursuant to this stipulation, Mr. Wren reported to the Master and to the attorneys for the respective parties, the result of his discussion of the above matter with Mr. Kirk, and the same became a part of the record of the case, as follows:)

“Pursuant to telephone conversation had with you today, I wish to advise that on Thursday evening, October 20th, 1927, I discussed this case with Mr. Kirk and told him the substance of Mr. Moore's testimony relative to conference held in Mr. Kirk's office on December 9th, 1926.

I particularly mentioned that Mr. Moore had testified that he did not leave prior to the conclusion of the conference; that he and Mr. Eliassen and Mr. Lieurance left at the same time and went down in the elevator together. At that time Mr. Kirk stated, that Mr. Moore's testimony was in accordance with his (Mr. Kirk's) recollection. It should therefore, be stipulated that Mr. Kirk's testimony would corroborate that of Mr. Moore's with regard to this conference in all respects. [379]

Copy of this communication is being sent to Attorney Eliassen and to Mr. Francis J. Heney.”

(Thereupon, the following proceedings took place:)

(Testimony of Edward R. Eliassen.)

Mr. ELIASSEN.—There was one other matter that I wanted to bring up.

Mr. CROSBY.—With your Honor's permission, and also Mr. Heney's may Mr. Eliassen make some further statement here?

The MASTER.—Yes.

Mr. ELIASSEN.—It has just slipped my mind. I made a note of it in my book. Mr. Moore said yesterday, as I recall it, that an attempt was made at this meeting, after our return from the North, to get us to revise the amounts of the allowances—I have used his language in my notes. He is mistaken there. I am positive of that, because several times we tried, or I tried to state that I would like to know what figures would be agreeable to them on account of allowances, and both Mr. Kirk and Mr. Moore, who were very angry at the time, said, in substance, that the time for discussion of the reduction of the allowances or for the decrease of the allowance had passed, and that all that they would consider was a stipulation setting aside the orders. You will recall, Mr. Heney, that I mentioned that to you at the very outset of our first meeting.

Mr. HENEY.—Yes, I do recollect you said that. I recollect that your statement of it, and Mr. Kirk's statement of it were widely apart.

Mr. ELIASSEN.—They always have been, yes.

(Thereupon, counsel for the plaintiffs inquired whether the telegram sent by Mr. Lieurance or Mr. Eliassen to Mr. Moore, after the last allowance was procured in Portland had been put into the record.

(Testimony of Edward R. Eliassen.)

Upon being assured by counsel for the objecting creditors and also by the Master that the telegram had been put into the record, Mr. Lieurance, witness for the plaintiffs, made a statement, which should be treated as testimony, and which is as follows:) [380]

The reason I mentioned it was that the reason for that telegram had its inception in this meeting that has been referred to, when we agreed that as soon as the aggregate of the allowance was known we would notify Mr. Moore. Within an hour after the aggregate allowances were known in Portland that telegram was sent. It had to do with this meeting with Mr. Kirk and Mr. Moore on the 9th of December.

TESTIMONY OF A. F. LIEURANCE, FOR
PLAINTIFFS (RECALLED—CROSS-EX-
AMINATION).

A. F. LIEURANCE, a witness for the plaintiffs, was recalled; and,—

Cross-examination by Mr. HENEY (Resumed).

Q. You do not mean to say that the word “aggregate” was used in that conference, the conference on December 9th?

A. No, I would not say that, Mr. Heney, but as soon as the amount of the allowances that the Courts would make was known—that was the sense of it, that was the understanding.

(Testimony of A. F. Lieurance.)

Referring to a carbon copy of a letter dated December 29, 1926, purporting to be from Roberts, Johnson and Rand, signed E. J. Hopkins, Credit Manager: I received the original of that letter in due course of mail.

(The original letter just mentioned was produced by the witness, and was introduced in evidence by counsel for the objecting creditors and was read into the record as follows:)

“ROBERTS, JOHNSON & RAND,

Branch of International Shoe Co.,

1505 Washington Ave.

St. Louis, Mo., December 29, 1926.

Mr. A. F. Lieurance,

1401 Central Bank Bldg.,

Oakland, Calif.

In re: R. A. Pilcher & Co.

Dear Sir:

When the writer was in New York the 17th of December, his attention was called to the exorbitant allowances to the Western Receivers and attorney in the above matter.

As you no doubt have been advised, the Eastern Receiver and attorney were asking what we felt were exorbitant fees and Judge [381] Hand looked at the matter in the same light. We finally got Judge Hand to allow the Eastern Receiver, Mr. Gotthold, \$5000 and the Eastern attorney \$7500.

I am writing this letter to you asking if you cannot do something to get the Western fees reduced.

(Testimony of A. F. Lieurance.)

According to Judge Hand and the Creditors' Committee that were in his court on the 17th of December, we felt that a total fee of \$60,000 would be about right, \$30,000 to go to the attorneys and \$30,000 to go to the Receivers. Judge Hand felt that the Eastern Receivers should receive about \$7,500 and the Western Receiver \$22,500. This we feel, is very liberal and hope that you can use your influence to get the fees reduced to this amount.

Yours very truly,

ROBERTS, JOHNSON & RAND (Branch)

(Signed) E. J. HOPKINS,

EJH.

Credit Manager."

I was not acquainted with Mr. Hopkins personally. I have not seen him. I know him from a business relationship, but I have never come in contact with him personally. I know who he is.

(Counsel for the plaintiffs announced that the witness was prepared to give the respective amounts of purchases made from certain stores, requested by counsel for the objecting creditors; thereupon, the witness testified upon the subject as follows:)

Mr. Hershey gave me these figures this morning, and in response to your request yesterday for the amount of merchandise purchased from Walton N. Moore and from A. V. Love, etc. The purchases from Walton N. Moore Dry Goods Company were \$7,914.76, for three stores; average purchase per store \$2,638.25. The purchases from the A. V.

Love Dry Goods Co. were \$35,930.60, for thirteen stores, and the average per store was \$2,764.43.

(At this point, counsel for the objecting creditors introduced in evidence two certain telegrams from William Fraser to Walton N. Moore; and which telegrams were read into the record as follows:)

The first one is dated at New York City December 27, 1926, and reads as follows:

“Walton N. Moore, care Walton N. Moore D. G. Co.
San Francisco, Calif.,

In New York Committees opinion allowances of receiver Lieurance and counsel grossly excessive and should be reduced.

WILLIAM FRASER.” [382]

The second is dated New York City, January 27, 1927, and reads as follows:

“Walton N. Moore, San Francisco.

On your recommendation New York Committee agrees to proposition to pay fifteen thousand each to Receiver and Counsel although we feel that attorneys fee is excessive. This arrangement however is bound to reopen question of New York Counsel's fee.

WILLIAM FRASER.”

(Thereupon, counsel for the respective parties agreed upon certain facts; and the remarks of the respective counsel upon the subject are as follows:)

Mr. CROSBY.—Mr. Heney, at this point, since those wires were sent, an additional \$7,500 was allowed to counsel there: Is that not correct?

(Testimony of A. F. Lieurance.)

Mr. HENEY.—Yes. It did start things as they thought it would.

Mr. ELIASSEN.—They have received \$15,000 to date on account, haven't they?

Mr. HENEY.—Who?

Mr. ELIASSEN.—McManus, Ernst & Ernst.

Mr. HENEY.—Yes, that is my understanding. A total of \$7,500 to the Receiver; \$5,000 first, and then \$2,500.

Mr. CROSBY.—Yes, that is right.

Redirect Examination by Mr. CROSBY.

I replied to the letter dated December 29, 1926, from Roberts, Johnson and Rand, signed by Mr. Hopkins, the credit manager of that firm; I have a copy of my reply here; it is dated January 10, 1927.

(Thereupon, the reply by Mr. Lieurance just mentioned, was introduced in evidence and read into the record as follows:)

“Oakland, California, January 10, 1926.

Mr. E. J. Hopkins, Credit Mgr.,

Roberts, Johnson & Rand,

#1505 Washington Ave.,

St. Louis, Missouri.

In Re: R. A. Pilcher Co., Inc.

Dear Mr. Hopkins:

Replying to your letter of December 29th regarding the amounts of fees and compensation awarded

by the Ancillary Courts to attorneys and receivers in the R. A. Pilcher Company Matter. [383]

About December 1, 1926, the question of fees and compensation to attorneys and receivers was brought up by Messrs. McManus,, Ernst & Ernst, by telegram, and they requested to know the amount of fees and compensation Mr. Eliassen and I would ask for. We replied that we would ask for no specific amount but would leave the matter of the fixing of the fees entirely to the Court.

On or about December 9th, Mr. Eliassen and I went over to San Francisco to confer with Mr. Walton N. Moore, member of the Creditors Committee, and Mr. Joseph Kirk, attorney for the Board of Trade of San Francisco, regarding the obtaining of orders in the various Ancillary jurisdictions for the payment to creditors of a dividend of 40%, and to make application to the Courts for a payment on account to receivers and attorneys. At this conference a telegram was read by Mr. Kirk, which stated that the Eastern attorneys and receivers were asking the New York Court for an allowance on account of \$10,000. each and would ask for an additional similar amount to be paid to each of them at the close of the administration. Feeling that the amounts asked for, and to be asked for, by the attorneys and Receiver in New York were excessive, it was decided and agreed at this conference, as is clearly set forth in Mr. Moore's telegram to Mr. Fraser, copy of which is enclosed, that before an allowance

was made in New York, the allowances to be made in the ancillary jurisdictions were first to be ascertained in order that some definite idea as to the aggregate amount of the cost of the administration might be had. No amounts were discussed or fixed at this conference, however it was agreed with them, the same as with Mr. Love at Seattle, that the fixing of such amounts should be left entirely to the discretion of the Courts. Mr. Eliassen and I proceeded upon this basis, the results of which you already know, and which I phoned to Mr. Love from Portland and gave to Mr. Walton N. Moore by telegram as soon as such results were known.

Mr. Hopkins, I want you to know that no effort was made on our part to influence the Courts in any way. We made to the Courts true and accurate statements as to the amount of work done and amount of sales obtained in each jurisdiction and the general results obtained in all jurisdictions collectively, and when asked by the Courts the amount we were asking for, said to them frankly that any allowances which to them seemed fair and equitable based upon the services rendered would be satisfactory to us. When pressed for an answer as to the amount I would expect, I replied I know of no way to arrive at an amount except upon the basis of a percentage of the sales, and whatever was customary in this regard would be satisfactory to me. I know of no commissions on sales of merchandise, or even real estate, which is less than 5%, and Judge Bean in Portland set the Receivers compensation

at exactly 5% of the total sales in that jurisdiction. Judge Webster at Spokane set the Receivers' compensation at approximately the same figure and Judge Neterer in Seattle followed substantially the same course. Judge St. Sure in San Francisco, after hearing the testimony as to what had been done in the course of the Receivership, set both the attorneys and receivers' fees at \$10,000 each. I, of course, informed the Courts that I had done all of the receivers' work in the jurisdictions where the stores were located and I felt that an equal division of the Receivers' fee would be inequitable. All of the Courts took the same view, hence the division of the fees between Mr. Gotthold and myself as made by the Courts. Compensation for Mr. Gotthold would not have been asked for in the Ancillary jurisdictions had I not received from him a telegram under date of December 15th, stating that he would expect to receive compensation in the Ancillary jurisdictions. Since then, I have received from Mr. Gotthold a communication stating that any compensation allowed [384] to him in the Ancillary jurisdictions would not be accepted. I have today written him to the effect that since he has changed his mind and now states he does not expect to receive compensation in the Ancillary jurisdictions, that the amounts awarded to him by the various Courts will be left in the General fund for distribution to the creditors. I understand that Mr. Gotthold has been awarded compensation to the amount of \$5,000. in the District of New York, and that

no compensation was awarded to me there, which is entirely satisfactory to me. Since Mr. Gotthold will receive no compensation in the Ancillary jurisdictions, the total amount fixed by the Courts and awarded to me now amounts to \$35,500., which as you will note is less than 5% of the amount of the sales.

For your further information, the volume of sales in the stores during the Receivership aggregated \$500,000.00. The stores when sold brought an additional amount of \$257,000.00, which makes total sales aggregating \$757,000.00. Since the merchandise inventory, plus the purchases during the Receivership, aggregates slightly less than \$700,000., it is apparent that the stores during the Receivership were handled in such a manner as to have shown a gross earning of upwards of \$50,000. I feel that I can say, without a display of egotism, that it requires some knowledge of the chain store business, and at least some degree of merchandising skill, to bring about a result of this kind, especially when the morals of the organization was virtually destroyed and the assets were of a perishable nature and scattered from California to Western Washington. It is also apparent that approximately 80% of the total value of the property was saved out of the estate, after paying all operating expenses, except those expenses incurred in the administration, which are now thought by Mr. Moore, Mr. Kirk, and possibly other members of the Creditors Comimittee, to be exorbitant.

In the beginning of this Receivership, Mr. Moore and I could not agree upon the procedure to be followed. However, since that time Mr. Moore has spoken highly of the administration, and the results obtained, and was agreeable to leaving the matter of attorneys fees and compensation for receivers to the Courts. Now that the Courts have made their decisions, and everything has been handled in a fair and square manner, he is not satisfied with the awards, which have been made, and demands that Mr. Eliassen and myself consent to the setting aside of the Courts orders, that the creditors may be heard in this matter. We have carried out our part of the plan and agreement and we are opposed to the setting aside of the orders, which have been made by the Courts setting forth the allowances on account. However, we are not opposed to a review of this situation, and are ready and willing to go before all of the Judges in open Court, in the presence of any and all creditors, and have the matter re-viewed. If the Courts see fit to change their decisions, we shall abide by such decisions with grace, and if the Courts still feel that the compensation and fees allowed are fair and equitable, we shall be content to let them stand as they are. We have indicated this to both Mr. Moore and Mr. Kirk, and have expressed our willingness to have this matter re-viewed at any time, which suits their convenience or the convenience of other creditors.

Mr. Hopkins, there is no desire on the part of either myself or Mr. Eliassen to take advantage of

any one in this matter and since all creditors will be notified before the final hearing and will have an opportunity to be heard in Court, it seems to me that would be the proper time to take this matter up in the various jurisdictions and thresh it out on its merits. I assure you we have every desire to be fair in this matter and want only such compensation as we are entitled to and have earned. [385]

You state in your letter that the Creditors Committee and Judge Hand felt that a total fee of \$60,000 would be about right; \$30,000 to the attorneys and \$30,000 to the receivers. Of course, I do not know upon what basis you arrived at this figure nor do I know just what position either Judge Hand or the members of the Creditors Committee are in to pass upon a situation of this kind without first having ascertained the amount of work done and the circumstances and conditions surrounding the administration. I cannot speak for the attorneys and Receiver in the East nor for Mr. Eliassen, however, I feel I can say for myself that I have given every minute of my time both night and day to this Receivership, neglecting my own business, to give to the creditors of the R. A. Pilcher Company an economical and efficient administration, and the results speak for themselves.

I have no desire to 'toot my own horn,' but I feel it is within the bounds of propriety to say, that it was not through the efforts of my co-receiver or the attorneys in this matter, that the results obtained were brought about, hence I am unable to

(Testimony of A. F. Lieurance.)

understand why the attorneys and receivers' fees and compensation should be divided equally as you propose. As I have stated above, Mr. Eliassen and I are opposed to the setting aside of the Court's orders fixing our allowances, however, we are ready and willing to have them re-viewed before the Courts at the final hearing, or at any previous date.

For you further edification, a dividend of 40% has been paid to all creditors whose claims have been adjusted and allowed. We have some five or six claims where the amounts involved have not as yet been reconciled. However, we have thus far been successful in adjusting these differences and we feel that the discrepancies in these claims will be adjusted very shortly and the dividends paid. In addition, we have about ten claims, which will have to be taken before a Master in Chancery. This will be done as quickly as possible, and it looks now like the administration can be brought to a close within the next four to six weeks.

Trusting this will make our position clear, and wishing you the compliments of the Season, and with kindest regards, I am,

Yours very sincerely,"

Redirect Examination of Witness Lieurance, by
Mr. CROSBY (Resumed).

The foregoing letter was signed by myself.

Referring to the document which purports to be a copy of a general letter sent to the creditors of R. A. Pilcher Co., Inc., dated May 28, 1926, and

(Testimony of A. F. Lieurance.)

purporting to have been signed by various members of the Creditors Committee, including A. V. Love, Walton N. Moore, John Von Dohln, George G. Black, William Fraser, and Marvin W. Clark, Secretary: I never saw that document until it was handed to me by Mr. Heney yesterday here in Court; I never saw a copy of it.

Q. At the meeting on December 9th at the Board of Trade rooms, was [386] anything said by anyone about the preparation of a statement by you and Mr. Eliassen concerning your services or the amounts of allowances to be asked for by you and him in this matter, which statement was to be taken up with the members of the Board of Trade, or any of them, or with the members of the Creditors' Committee, or any of them, or with the creditors, or any of them, before you asked the Court for allowances?

A. No, sir, and I never heard of that until it was brought up here at this hearing.

I don't recall having met Mr. Moore at his office, about December 20, after we had returned from the north, and after having obtained these allowances; but I recall having interviewed him at Mr. Kirk's office in the Board of Trade. Mr. Moore, Mr. Kirk, Mr. Eliassen and myself were present at that interview.

At that meeting, there was something said about revision of fees; I will take that back; there was nothing said about revision of fees but there was something said about the excessiveness of the fees.

(Testimony of A. F. Lieurance.)

There was something said about seeking to set aside the orders. Mr. Kirk and Mr. Moore demanded that the allowances that had been made be set aside in their entirety. We told them that we felt they had been obtained fairly and squarely, according to our agreement and understanding, and that we had carried out our part of it faithfully, and that we did not feel that would be the proper thing to do. That was the substance of the conversation.

I could not state positively that there was nothing said about reduction of the fees. It was stated that we were willing to have the amounts reviewed before the Courts. That was stated there at that meeting.

On the 9th of December, when we had that meeting with Mr. Kirk and Mr. Moore, when that wire was made up and sent, Mr. Moore did not leave that office with Mr. Eliassen and myself. He did not remain there throughout our whole stay there. After he went away, [387] Mr. Eliassen, Mr. Kirk and myself remained there. It was after Mr. Moore had gone, that we had the conference with Mr. Kirk about going out to court the next day.

Recross-examination by Mr. HENEY.

My letter to Mr. Hopkins dated January 10, 1926, contains the statement that at the conference in Mr. Kirk's office on December 9, a telegram was read by Mr. Kirk which stated that the eastern attorneys and Receivers were asking the New York court for an allowance on account of \$10,000, and

(Testimony of A. F. Lieurance.)

would ask for an additional similar amount to be paid to each of them at the close of the administration. That does not refresh my memory so as to enable me to say now that the telegram was read by Mr. Kirk. The matter was naturally fresher in my mind at the time that letter was written on January 10, than it is now; that was approximately a month afterwards. I think I testified that the substance of the telegram was known, if I am not mistaken.

Q. Yes, you did, and you also testified that the telegram as not read.

A. And I will testify to the same thing now. I don't know that I testified that it was not read; I might have. I don't recall its having been read.

Q. In the face of this letter would you now state that it was not read?

A. No, I would not, and I would not say that it was, either. The substance of it was known to me, at the time I wrote that letter.

Q. At the time that you were presenting the matter to the Court for the allowance of attorney's fees and Receiver's fees on account, and the first court in which you stated that you thought that five per cent commission would be right, did you explain to the Court that that amount on which you were asking it included the turn-over?

A. Included in the total gross sales.

Q. But did you explain to the Court that those total gross sales constituted a turn-over for several months' business? [388]

(Testimony of A. F. Lieurance.)

A. It was referred to as total gross sales.

Q. Was the other thing stated, at all?

A. I don't know that the matter of turn-over was mentioned.

No corporation that I have ever been connected with paid a commission to any one of its administrative officers. The Penney Company never did, except to the women employees.

However, the administrative officers were paid on the basis of the earnings. I don't know whether you would call it a commission, but it was a percentage.

For example: The president of the Penney Company, Mr. E. C. Sans, did not get any salary; but he got a compensation equal to 30% on the amount of stock that he held. That was not an earned dividend. It was compensation. I got the same thing. I got 30% of the earnings on the amount of stock I held in that particular part of the business.

The Penney Company is organized and exists under the laws of the State of Delaware; they have classified stock—or did have, they haven't any more; each store was given a number and a name that identified that particular classification of stock. When there was 600 stores there were 600 classifications of stock.

Stockholders in the Penney Company, all of whom worked for their interest, who produced the inside of the business—there as no stock ever sold on the outside, no man on the outside ever put a dollar into this business that was not earned within

(Testimony of A. F. Lieurance.)

the business; a stockholder might own a one-third interest in one store, he might own a one-sixth interest in another store, he might own a one-twenty-first interest in another store, etc. Each of those stores had from two to five, or six, or seven stockholders, all of whom were in this corporation; their particular part of the business was to contribute to the whole of this business, that is, I gave as much service to the stores that I had no interest in as to those that I did have an interest in. Instead of sharing in the interest of all of these. I [389] got mine from those in which I owned particular stock. So did everyone else.

In addition to the above, I got a salary of \$10,000 a year.

Q. And what you got in the way of earnings, as you speak of it, was in effect your share of the profits of that particular store in which you owned this stock?

A. No. I got 30 per cent of what the stock earned as additional salary. However, it was not paid until the end of the year, when this was known.

I had an interest in sixteen or seventeen stores, out of six hundred stores at that time. My total compensation amounted to approximately \$40,000 a year. I had no investment, except what I had worked for. I left two-thirds of it in the business, which I got in the form of a stock dividend. Originally, I made no investment at all, except labor; and I got stock for labor and services.

(Testimony of A. F. Lieurance.)

By the time that I was getting this \$40,000 a year, when I was at the head of the advertising part of the business, there were 497 stores, if I remember right. The advertising for all of those stores was an important part of the business.

I got the \$10,000 salary all of the time; and that was included in the \$40,000. Sometimes it would be more than \$40,000 and sometimes it would be a little less. It ranged from \$35,000 to \$50,000.

(The attention of the witness Lieurance was directed to the fact that the verification of the claim of Walton N. Moore Dry Goods Co., made by W. J. O'Connor, secretary and treasurer, recites the fact that said corporation had no security of any kind for the payment of said debt, but that it does hold two personal guarantees by J. C. Brownstone, of New York City, to pay not exceeding the sum of \$10,000 and \$20,000 respectively, copies of which guarantees were attached, marked Exhibits "B" and "C" and made a part of the claim; and the witness testified:) [390]

My recollection is that I saw some information of that kind on the claim that Mr. Moore filed. Moreover, Mr. Brownstone himself told me that he guaranteed them. I don't know whether it was prior to the receivership that he made the guaranty. I don't think there was anything said about the time. I think he simply stated that he had guaranteed the account.

DEPOSITION OF WALTER E. ERNST, FOR
OBJECTING CREDITORS.

WALTER E. ERNST, called and sworn as a witness for the objecting creditors, testified, upon deposition, in substance, as follows:

Direct examination given in narrative form without interrogation: I am an attorney and counsellor at law admitted to practice in the State of New York and in the courts of the United States and have been such for approximately twenty years. I am a member of the firm of McManus, Ernst & Ernst, who are attorneys for the complainants, in the action brought by Sidney Gilson and others, trading as National Garment Co. against R. A. Pilcher Co., Inc., in the United States District Court in and for the Southern District of New York. The firm of McManus, Ernst & Ernst also were authorized by the Court to become attorneys for Arthur F. Gotthold and A. F. Lieurance, appointed Receivers in that action, and the said firm did become attorneys for the said Receivers.

In the latter part of June, 1926, I went to California to confer with Mr. Lieurance, Mr. Eliasser, Mr. Kirk and the large creditors in the west. That trip was made pursuant to resolution of the Committee of Creditors in New York. It had for its purpose in general conferring concerning the working out of the receivership, the management of the business incident thereto and the policy to be pursued by the

(Deposition of Walter E. Ernst.)

Receivers under the receivership. I conferred with Mr. Lieurance at great length, examined the accounts, in so far as they were then prepared and generally advised him as to desires [391] of the creditors in New York, who were represented by the so-called Eastern Creditors' Committee. I conferred at length with Mr. Kirk, with Mr. Walton Moore, member of the Committee of Creditors of the Pilcher Company and chairman of the Committee of Western Creditors. These interviews had for their purpose the adoption of a uniform plan to be approved by all parties in interest for the carrying on of the receivership and the continuance of the business pending the ultimate liquidation thereof. At that time it was believed that if some of the stores, which were unprofitable could be sold, the business might be saved for the corporation, providing some new capital was invested by one or two of the stockholders.

In the course of the conferences, at the office of Mr. Lieurance, which office was in the Central Bank Building, in Oakland, California, I ascertained from Mr. Lieurance the expenses of running the office, which he had opened and equipped and which was engaged, as I then understood and still understand, solely with the affairs of the receivership of the Pilcher Company, and for the purpose of giving me these expenses accurately, Mr. Lieurance called Mr. Hershey into the office. I tabulated the expenses which were given to me at that time by Mr. Lieurance and Mr. Kirk and they are as follows:

(Deposition of Walter E. Ernst.)

Rent monthly	\$ 90.00
Help accountant monthly	300.00
Stenographer	125.00
Telephones and wires monthly approxi- mately	30.00
Postage monthly approximately	10.00
Temporary help to complete inventory eight girls total cost approximately.	300.00
Printing to date	155.00
Court costs in California	500.00
Court costs in Oregon about	500.00
Court costs in Washington about	500.00

In giving this testimony, I am reading from a memorandum, which I made on July 1st, 1926, at the time of that conference. Mr. Hershey is the accountant, referred to as the accountant, and at that time Mr. Lieurance told me that Mr. Hershey was receiving a salary of \$300 per month. Later, Mr. Hershey told me that it was the first "job" that he had taken at a monthly basis and asked my [392] opinion as to how long it would last. He also asked me whether Mr. Leidesdorf, the accountant in New York was on a monthly basis, *per diem* basis or expected an allowance and I told him the custom was that the accountants asked for an allowance when their work was finished but that such allowance was usually based upon *per diem* services. At no time during our conversations, concerning the management of the office, or the conduct of the receivership, did Mr. Lieurance state to me that one of the expenses would be the fixation of

(Deposition of Walter E. Ernst.)

accountant's allowances or fees. Mr. Lieurance and I did talk about the Receivers' fees and the fees of counsel for the Receiver. Those were the only fees which were referred to as having to be fixed thereafter.

I have given the foregoing testimony because a commission has been issued to take my testimony and I have been requested to give the testimony.

In connection with the present controversy, concerning the fixation of fees for Mr. Lieurance and Mr. Eliassen, his attorney, I wish to state that I appreciate that Mr. Lieurance has given practically all, if not all, of his time for at least the months of June to September, 1926, in the furtherance of the affairs of the receivership. I know that the result of the receivership has been that many of the stores have been sold for a very satisfactory figure—I mean figures which should be satisfactory to and please the creditors. I believe, however, that much of the added work and effort of Mr. Lieurance was caused by controversial letter writing between the east and west, as to matters which were legal in their aspect and could have been, and I believe should have been, readily decided by either his attorney in the west, or Messrs. McManus, Ernst & Ernst in the east, who were attorneys for both Receivers.

I attended a meeting of the Committee of Creditors of R. A. Pilcher Co., Inc., which committee was duly elected in the latter part of May, 1926. All of the members of the committee were present, [393]

(Deposition of Walter E. Ernst.)

except Mr. Love and Mr. Moore. At the said meeting, which was held in the month of March, 1927, it was unanimously resolved by those present that opposition should be made to the payment of any further fees or allowances to either Mr. Lieurance or Mr. Eliassen.

Cross-examination by Mr. ELIASSEN.

The members of the eastern Creditors' Committee, who were present at the meeting in March, 1927, of which I have just testified, were Mr. Fraser, Mr. Wittenberg, Mr. Lebowitz and Mr. Schmidt. Mr. Brownstone was present, although I do not think he is a member of the Committee. My recollection is that there were two other members of the Committee present whose names I can't recall now. I said before that all of the members were present, except Mr. Love and Mr. Moore, because of the statement made to me that there was a full meeting, except for the two westerners.

WITNESS.—(Continuing.) I wish to add, if it may aid anyone in comparison of fees, that my office gave its attention to this matter daily from the day we were retained late in May until the end of 1926. That during that time, I took the trip to the west, to which I have heretofore referred, occupying, as I recall it, a little less than three weeks. That there were many appearances in court. That in the year 1927 I appeared before Mr. Cardozo the Special Master on at least twenty occasions for the purpose of taking testimony in the contested claims.

(Deposition of Walter E. Ernst.)

That exclusive of court work, there were almost daily conferences with the Receiver in New York. There was correspondence by mail and telegram, with Mr. Lieurance and with Mr. Eliassen. That there was correspondence to the extent of an average of no less than three letters a day with various creditors. That during the month of August of 1926, there were frequent conferences with persons who it was thought could be induced to invest sufficient money to rehabilitate the business. That my office endeavored for about a month in the latter part of the summer of 1926 to induce purchasers [394] to take over the business. That as a result thereof, at the hearing before Judge Hand, for the purpose of disposing of the assets of the corporation, there were approximately ten bidders present, all of whom were responsible and were ready to bid, except for the restrictions that were necessarily placed upon the sale by reason of the notice that was sent from Oakland. That all steps as to policies taken by my firm were taken only after conferences with and meeting of the Creditors' Committee.

Cross-examination by Mr. ELIASSEN.

(The witness was asked to give the names of the ten bidders above mentioned, and the witness testified:)

I haven't any papers with me. I can only give them by recollection. I know that Mr. Haibloom was present representing a bidder. I know that Mr. Nathan Steinfeld was present, Mr. Calder was present, Mr. Shaap was present, Mr. Alexander was

(Deposition of Walter E. Ernst.)

present and Mr. Karp was present. I recall the above-named gentlemen because I have had numerous conferences with them and I know that they are in the business of buying bankrupt stock. Those are the ones I recall.

This Mr. Haibloom is the same man who offered \$325,000 for all of the assets, including the cash on hand, at a meeting held on September 8, 1926; but at that time he made an offer for somebody then interested in the business. He appeared in court as a representative of a man named Frankel.

Some of these men indicated how much they were willing to pay for the stores but I haven't the figures. Some of these men offered bids in writing, at my office, or to the court. Some of these bids were accompanied by a deposit. I do not recall all bids which I received in writing and with a deposit but I do recall that a deposit of 10% was made in three instances. I do not recall at this time the amount of any bid received.

These men (the bidders above mentioned) are men who are in the business of dealing in bankrupt stocks. They are not in the chain store business themselves. One of them is in the ladies' chain [395] store business.

Q. Which one is that Mr. Ernst?

A. Mr. Frankel and one of the bidders, who acquired through a representative, or in conjunction with an associate, four or five of the stores by bidding therefor in the west.

(Deposition of Walter E. Ernst.)

I do not recall what stores were acquired as just stated, or the name of the person who acquired them. I only know about the stores because Mr. Shaap told me about them. He didn't say what stores they were, or, if he did, I don't recall them.

These three bids that were received must have been reported to the Court, because I think one bid was the basis upon which we got the order. Those bids, however, were not as good or as high as the bids which you (Mr. Eliassen) received in the west at that time.

Q. That, as a matter of fact, was the real reason why the bids were not submitted.

A. The real reason is that we were to have what is termed an auction sale or what is really bidding and when the proceedings were had that morning there were so many limitations placed upon the bidding that the prospective bidders refused to make any bids in open court. In short, these men who I know to be in that business and who I knew had come there for the purpose of bidding said that, in view of the restrictions, and, in view of the manner in which the bids had to be made, that is subject to bidding in the west, they wouldn't bid in the east and would rather take their chances in the west, so as not to bid against themselves. They said they might just as well offer no bid here and have their emissaries or representatives in the west make the bids for them. They didn't refrain from any bidding because of any tactics on the part of

(Deposition of Walter E. Ernst.)

Mr. Lieurance but merely because they didn't want to bid against themselves.

Q. What was done with these bids that were received by you, the three initial bids you spoke of?

A. They were just left go. [396]

DEPOSITION OF ARTHUR F. GOTTHOLD,
FOR OBJECTING CREDITORS.

ARTHUR F. GOTTHOLD, called and sworn as a witness for the objecting creditors, testified, upon deposition, in substance, as follows:

Direct Examination by Mr. WALTER E. ERNST.

I am an attorney and counsellor at law, admitted to practice in New York State and in the United States Courts. My office is at 27 Williams St., New York City. I have been practicing 25 years.

I am one of the Receivers in a case entitled in the United States District Court for the Southern District of New York, Sidney Gilson and others against R. A. Pilcher Co., Inc. I was appointed temporary Receiver and qualified as such; afterwards I was appointed permanent Receiver and qualified as such. Since that time I have been one of the Receivers of the R. A. Pilcher Co., Inc. My accounts have not been settled except that I have made partial and somewhat informal reports to the Court of the conditions.

I know that Mr. A. F. Lieurance was appointed Receiver in ancillary proceedings brought in California, Washington and Oregon; and I was also

(Deposition of Arthur F. Gotthold.)

appointed Co-receiver in these ancillary proceedings.

I know that in the month of December, 1926, Mr. Lieurance, as one of the Receivers in these ancillary proceedings applied for an allowance for himself as ancillary Receiver, and for an allowance for his attorney; and he also applied for an allowance for me as Co-receiver.

I did not sign any application or petition for allowance in any of these ancillary proceedings.

I did not authorize Mr. Lieurance to petition the courts in California, Oregon or Washington for an allowance to me, as one of the Receivers in the ancillary proceedings pending in those courts.

I did not join with Mr. Lieurance in any application or petition for an allowance.

I did not receive any part of the allowances which were granted by the courts of Washington, California and Oregon, during [397] the month of December, 1926.

I understand that the net amount which Mr. Lieurance has received to date, for his services as Co-receiver in the ancillary jurisdiction is the sum of \$15,000. He previously received more than that but, I am informed, he returned a portion of that allowance to the Receivers' estate.

I understand that the net amount which Mr. Eliassen has received from the courts of Washington, Oregon and California, as attorney for Mr. Lieurance in the ancillary proceedings pending in

(Deposition of Arthur F. Gotthold.)

those courts is the sum of \$15,000; he having also received allowances in excess of that sum, but having returned a portion to the receivership estate.

I have a general knowledge of the services which were rendered by Mr. Lieurance in connection with his duties as Co-receiver in these proceedings.

I have heretofore been appointed Receiver by the federal courts in this jurisdiction. It would be difficult to say in how many instances I have been so appointed, but it is more than ten times.

I have a general knowledge of the fees and allowances which are given Receivers for services rendered in equity proceedings where they have been appointed Receivers in federal courts.

I have formed an opinion, sufficient to enable me to express a belief, as to the compensation to which Mr. Lieurance is entitled as Co-receiver. I think \$20,000 would be a fair compensation; that is, \$5,000 in addition to what he has already received.

That expression of opinion is based on my experience here in New York, and on my examination of documents and correspondence, which have been submitted to me, showing the work that has been done in this particular case.

As a Co-receiver I would be satisfied that he be awarded that sum by the court in California without making any claim to any part of it. [398]

I really have not formed any opinion as to the amount to which Mr. Eliassen would be entitled,

(Deposition of Arthur F. Gotthold.)

as attorney for Mr. Lieurance as Receiver, because I have not sufficient knowledge as to what services Mr. Eliassen has performed.

I did not at any time consent to the payment to Mr. Phillip Hershey of the sum of \$5,900 on or about December 31st, 1926. I knew that Mr. Hershey was employed, as an accountant, by Mr. Lieurance and myself, as Receivers; and I was informed by you (Mr. Ernst) that he was employed at a specified salary. I was informed by you (Mr. Ernst) about that specified salary at the time of your return from California. You gave me that specified salary at the time that you gave me the list of employees of the Receivers, and their salaries, and the expense of conducting the office.

Cross-examination by Mr. ELIASSEN.

I had considerable correspondence with my Co-receiver, Mr. Lieurance, during this administration, both by telegram and by letter.

I am quite sure that I sent to Mr. Lieurance the telegram dated December 8, 1926, reading as follows: "I shall be glad to know your views as to allowances to receivers and counsel as soon as possible." My recollection is that this telegram was sent for me by Mr. Ernst but was sent with my knowledge and approval.

The telegram from myself to Mr. Lieurance dated December 9, 1926, a copy of which is now

(Deposition of Arthur F. Gotthold.)

shown to me, was either sent by me, or by Mr. Ernst for me, and with my consent and approval, after having read it to me over the telephone. The telegram I refer to reads as follows:

“Suggested interim allowances in New York are Ten Thousand Dollars to receivers to be divided equally ten thousand to New York counsel stop New York counsel to make no application in ancillary jurisdictions over figures indicated satisfactory to court and generally to creditors but before payment is made we hoped to get some estimate of allowance so that figure might be cut down to reasonable amount.

(Signed) ARTHUR F. GOTTHOLD.”

As to the telegram dated December 15, 1926, from myself to [399] Mr. Lieurance, at Oakland, California, I make the same answer; it was either sent by me, or sent by Mr. Ernst with my consent and approval.

(Thereupon, the telegram was read into the record, as follows:)

“Regret we have had no further word in answer our telegram and Fraser letter Stop Further answering your telegram December tenth it has not been suggested here that I receive allowance in New York only Stop I am informed you and Mr. Walter Ernst agreed both of us to apply for allowances in New York and also in each of ancillary jurisdictions in event that separate applica-

(Deposition of Arthur F. Gotthold.)

tions should be made Stop We are asking Judge Hand for a hearing on Friday reference interim allowance Stop Shall be glad to know your views before that time.

(Signed) ARTHUR F. GOTTHOLD."

(After Mr. Eliassen read the telegram as above, the witness Gotthold made the following statement:)

I think that is not correct. My recollection is that it read "it has now been suggested here." But I sent a telegram similar to that. I have not at the present time recollection of the exact language. I have, however, a carbon copy of the telegram, as it was sent. I shall be glad to furnish it for comparison.

Q. Now, was it your understanding, Mr. Gotthold, that Mr. Lieurance was to apply for allowances on account of both of you in the ancillary jurisdictions?

A. I never had any clear understanding as to what he was to do. I wrote him repeatedly and telegraphed him and discussed it also with my counsel and I understand that they wrote to try to get from him some definite statement as to the plan that was to be adopted and when Mr. Hershey was here in about November, 1926, I discussed the matter with him several times and requested him to get for me from Mr. Lieurance a definite outline of the plan to be adopted. I was confused up to the very time that applications were actually made.

(Deposition of Arthur F. Gotthold.)

Q. As a Co-receiver in the ancillary jurisdictions, you expected compensation, *do* you not?

A. I expected for my services as Receiver adequate compensation but [400] I did not necessarily expect that it would be paid in the ancillary jurisdictions. One of the plans that was discussed and which was finally adopted was that I should receive an allowance or allowances from the federal court in this jurisdiction and waive any claim to compensation in the other jurisdictions.

Q. That was after December, 1926, was it not?

A. It was discussed back and forth before that time but that was the time when it was adopted.

Q. Did you at any time subsequent to the making of the applications, protest to Mr. Lieurance that it was not your desire to apply for compensation in those jurisdictions of the west?

A. I don't know that I protested but I stated it was not my intention and I either wrote or telegraphed to that effect, I think both, to Mr. Lieurance that if any payments had been made to me for allowance in the western jurisdictions, I would immediately redeposit the amount of the check so drawn in the receivership estate.

Q. That was done, was it not, after you and he had agreed that you were to accept the allowances made here in New York in full for your compensation and Mr. Lieurance to accept the allowances made to the Receivers in the western jurisdictions for his compensation?

(Deposition of Arthur F. Gotthold.)

A. I don't know that we made any definite agreement but after that procedure was adopted. I don't recall having made any definite agreement with Mr. Lieurance on that subject.

Q. You did send a wire to him to that effect, did you not?

A. At least one and I think several.

I received a telegram from Mr. Lieurance, on or about the 15th of December of last year. (Mr. Eliassen then read the telegram into the record as follows:)

“Reply your wire December Fifteenth I have received no letter from Mr. Fraser neither did I write to him Stop No agreement was made between Walter Ernst and myself regard receivers compensation Stop As wired you December Tenth a suggestion was made that you take all of the allowance made in New York and I take allowance to be made here in west Stop This is I believe fair and equitable does this plan meet with your approval.

(Signed) A. F. LIEURANCE.” [401]

WITNESS.—(Continuing.) I do not recall the exact wording of the telegram, but I think that the above is substantially correct.

It is true that under date of December 16, 1926, I sent a telegram to Mr. Lieurance in reply to the telegram just read into the record, and the copy now shown to me is substantially correct. (Mr. Eliassen then read the telegram into the record, as follows:)

(Deposition of Arthur F. Gotthold.)

“Replying your wire December Fifteenth Fraser letter should have reached you Stop My opinion regarding allowances come from Mr. Walter Ernst I regret misunderstanding Stop Your suggestion as to allowances is acceptable to me but I hope that aggregate of allowances will be kept to reasonable figure Stop Hearing before Judge Hand set for afternoon of December Seventeenth will submit matter to him then.

(Signed) ARTHUR F. GOTTHOLD.”

WITNESS.—(Continuing.) I made an application here in New York, in the month of December, 1926, for allowances to myself as Receiver. I don't recall whether that application was made on behalf of both myself and Mr. Lieurance.

Q. In the matter of that application, did you consult with Mr. Lieurance, do you recall?

A. One of the telegrams you have just shown me shows that I telegraphed him the suggested allowances. My recollection is that there were other telegrams or letters passing between us on the same subject.

Q. I show you, Mr. Gotthold, what purports to be a certified copy of the Third Report of Receivers, dated December 6th, 1926, and Petition, the original of which was apparently filed in the United States Court here in New York, and ask you whether or not the original was signed by you, on behalf of both Receivers?

A. The original of this was signed as follows:

(Deposition of Arthur F. Gotthold.)

“Receivers in Equity of R. A. Pilcher Co. Inc. by Arthur F. Gotthold, verified by me on December 6th, 1926.

I don't recall whether that petition was filed in the proceeding here in New York, on or about December 6, 1926. I assume it was filed. I did not file it. I remember that there was a hearing [402] on the matter. The papers that you now show me show that an order was signed on December 7th, 1926, which recites the Third Report and the Petition of the Receivers, so I assume that the paper entitled Third Report of the Receivers is the one that was filed, although it was not certified and I do not recall the exact wording at the present time. I will ask Mr. Ernst to ascertain the facts and state them on the record.

This petition, a copy of which has just been shown to me, prays for “*ad interim* allowances for themselves and their counsel.”

Q. And the report all the way through has not been the report of one receiver but the report of both yourself and Mr. Lieurance, as Receivers in this jurisdiction? A. That is correct.

Q. Now, did you show this report to Mr. Lieurance before it was filed?

A. I don't know whether or not it was submitted to him by my counsel.

Q. No authority was given by him to file such a report?

A. Oh yes, up to that time it had been understood, as indicated in the letters and telegrams

(Deposition of Arthur F. Gotthold.)

passing between us, that application was to be made in the court here and I was trying to get Mr. Lieurance to indicate what he considered proper compensation by way of allowances. Being unable to arrive at that result, that plan was abandoned and on December 7th, 1926, when this report was apparently filed, that plan was abandoned and a further hearing was directed by the Court and on that further hearing application was made for allowances to me and to New York counsel and I notified Mr. Lieurance that I did not wish to apply to the western jurisdictions and would not take compensation even if it were awarded. I think that covers it.

Q. As a matter of fact, you had an arrangement with him, did you not, as evidenced by correspondence, both letter and telegraphic, that you were to sign checks here on behalf of Receivers, make necessary reports and accounts here and that he on the other hand was to do likewise in the west? [403]

A. So far as signing checks is concerned, that is correct. On the question of making reports, I don't recall that there was any definite arrangement made.

I made other reports on behalf of the Receivers, in the United States District Court here, in addition to the one that has just been called to my attention. My recollection is that they were made on behalf of both Receivers.

Q. About how many reports have been filed here on behalf of both Receivers?

A. The paper which you showed me indicates

(Deposition of Arthur F. Gotthold.)

that there were two before the third report and my recollection is that a subsequent report had been filed, although it may be entitled a petition.

Q. And those documents or instruments were filed on behalf of both receivers?

A. The first, second and third were. My recollection is that the fourth was not. The fourth was my own petition for a subsequent allowance.

Q. Did you send to Mr. Lieurance, before the filing of any of these three reports that you have just mentioned, drafts of the same, asking for any comments or approval?

A. The first report was filed on July 6th, 1926. Mr. Walter Ernst was then in California. He sent us several long telegrams and spoke to Mr. Irving Ernst over the telephone. Mr. Irving Ernst and I completed that report on July 5th, 1926, which was a holiday and the general purport of that report was sent to Mr. Walter Ernst who in turn, I am informed, took it up with Mr. Lieurance. I can't tell you whether the telegram came in just before or just after it was filed. The hearing was on the morning of July 6th. That was a report which indicated the general situation and asked for the views of the Court and creditors as to whether or not the Receivers should be permanent. My recollection is that the order entered on that report was telegraphed verbatim to Mr. Lieurance as soon as it was entered.

I don't recall the second report; and I don't recall whether [404] I submitted it to Mr. Lieu-

(Deposition of Arthur F. Gotthold.)

rance first. I do recall the third; most of the matters contained in that report were the subject of correspondence and telegrams passing between me and Mr. Lieurance in advance of the preparation of the report.

Q. Do you recall whether or not you told Mr. Lieurance that you were preparing a report and would file it? A. Oh, yes.

Q. In advance of this particular report?

A. Yes.

I have that correspondence. Mr. Ernst has copies of all the correspondence passing between Mr. Lieurance and myself. It is available for your inspection.

Q. Are you making any objection, Mr. Gotthold, because of any neglect on the part of Mr. Lieurance to first submit to you before filing any reports that were filed in the western jurisdiction?

A. I am not making any objection to anything. I am testifying as a witness. I am not a party to this proceeding.

Q. Have you ever made any objection on that account in the premises?

A. I requested Mr. Lieurance to indicate the sums that he was going to ask for. To this request I never got any answer. I felt at the time and still feel that it would have been much better if Mr. Lieurance and you had indicated your views in advance to the applications to the Court and had obtained the views of the creditors before making

(Deposition of Arthur F. Gotthold.)

such application. My feelings are not hurt on that account.

I have not at any time questioned the authority of Mr. Lieurance to file any reports on behalf of the Receivers; but I several times requested Mr. Lieurance to let me see what he was going to file before he filed it. My recollection is that I made several of those requests by letter or telegram. One request I made over long distance telephone, at a conversation that I had with Mr. Lieurance last winter some time and several I made of Mr. Hershey, upon his assurance that he would take the matter up with Mr. Lieurance but whether or not he did so I cannot say.

I think I sent a letter or telegram directly to Mr. Lieurance [405] concerning that. I am not positive. I will try to find it. I will state I have no present recollection of any letter to that effect but I have a very distinct recollection of several definite conversation with Mr. Hershey on the subject and my telephone talk with Mr. Lieurance. My telephone talk with Mr. Lieurance impresses itself on my memory because it was the only time I ever spoke to him on the telephone.

(Asked if he recalled "when that was," the witness answered:)

If you have the complete correspondence file here, you will find a telegram from me that I would call him up at his office on a given date. I should say that it was early in January of this year, but I may be wrong about that. I know

(Deposition of Arthur F. Gotthold.)

that I had telephoned him on the date that I said I would. I don't recall it but the date can be fixed by my office records and your telegram. If you find that telegram, you may put on the record that the conversation was on the date stated in the telegram.

Q. Now, as to the account, Mr. Gotthold, have you any objection, other than to that item of \$5,900, which was spoken about?

A. I filed no objections, Mr. Eliassen. I have felt and still feel that the amount paid to Mr. Hershey was excessive and I have so stated.

Q. Did you concur with those objections that have been filed by certain objectors in the west, particularly in regard to that item of \$5,900?

A. I don't know what you mean by "concur."

Q. These people say that you did concur with them?

A. I don't know just what you mean by "concur." I have stated repeatedly to you, Mr. Lieurance, to the Creditors' Committee and to Judge A. N. Hand that in my opinion the amounts asked by way of allowances in the western jurisdictions were excessive and that the amounts paid to Mr. Hershey, as accountant, was excessive. Those were merely statements of my personal opinion, based on my knowledge of this particular case, and, of course, based to some extent on my experience.

[406]

I have seen a copy of the account as filed. I have gone over it.

(Deposition of Arthur F. Gotthold.)

Q. Did you find any other item of the account, other than the \$5,900, that didn't seem proper?

A. I think there was another payment to Mr. Hershey, in addition to that \$5,900 item but my recollection may be wrong about that. I have not looked at the account in sometime. At the time that I examined the account, I wrote Mr. Ernst, or his firm, my views about it and I have no objection to that letter being produced.

Q. You don't know whether or not that communication was forwarded to me or Mr. Lieurance, do you?

A. I don't recall. I know that at the same time I communicated with you or Mr. Lieurance, or both of you, but whether I sent you a copy of that particular letter, I don't recall.

Q. You don't want the courts out west to get the idea, do you, Mr. Gotthold, that the account is not the account of the Receivers and only the account of Mr. Lieurance?

A. No, I take it that the account is the account of both Receivers of transactions conducted by Mr. Lieurance on behalf of the Receivers and, so far as I know, no one has falsified the account in any particular.

Q. The only objection then, I take it, that you have to the account, or report, or petition is first the objection to that one item of money paid by Mr. Lieurance to the accountant, Mr. Phillip Hershey, and then to the payment of any further allowance to Mr. Lieurance or myself?

(Deposition of Arthur F. Gotthold.)

A. I wish you wouldn't use the word "objection." I have tried to make my position clear. I did not feel and do not feel that the payment or payments to Mr. Hershey were justified, to the extent that they have been made and I do not feel that further allowances should be made to Mr. Lieurance or to you of the sums which you have requested. I have not stated that in my opinion no further allowances should be made. [407]

Q. Isn't it a fact, Mr. Gotthold, that the only knowledge you have of the amount of work done and time spent by Mr. Lieurance, in the administration of this estate in the western jurisdictions, is that you have learned from the correspondence and the reports?

A. No, that is not correct, if by the reports you mean the formal reports filed in court. I state that, in addition to those, I, or the accountants employed by me, received weekly reports and in some cases daily reports of the work done in the different jurisdictions, supplemented by monthly reports prepared by the accountants, supplemented by oral reports made to me by Mr. Walter Ernst, after his return from California, and further reports made to me by or through the Creditors' Committee, some members of which were in the west, and also supplemented by several long conferences with Mr. Hershey and many conferences with the accountants employed by me, who at my direction obtained various bits of information.

Q. From whom did they obtain this information?

(Deposition of Arthur F. Gotthold.)

A. From Mr. Lieurance, from the store managers, from banks in the west, from Mr. Hershey, from creditors and from various other sources. [408]

The MASTER.—The practice in the Master's office is prescribed by Rule 114, I think it is, whereby it is contemplated and states it, as I recall, by using the word "shall." "The Master shall announce his report in the form of a draft, and give the parties an opportunity to file objections." Then it goes on to say that he considers the objections, and rules on them, and files his report, either modified or unmodified, with the Clerk, and then the procedure is, as you know, to file exceptions with the Court. That is rather a cumbersome procedure. It seems to me that in a matter of this sort there is no need of filing exceptions with me. I am going to state what fees I think are proper, and if either party thinks they are too much or too little, that is about all that can be said. Do you want to file objections with me in this matter?

Mr. HENEY.—No, I do not think so.

Mr. CROSBY.—There is no use making the procedure any more cumbersome than is necessary.

The MASTER.—It takes time. Then I suggest that the parties stipulate that the procedure as laid down by the rule of this Court, to the effect that the Master first announce his report in draft form be waived, and that the Master shall file his report when it is ready in the Clerk's office, and give the parties notice by mail in the usual way.

Mr. HENEY.—It is so stipulated.

Mr. CROSBY.—We will so stipulate.

The MASTER.—Then the matter will be submitted on briefs as agreed. [409]

EXHIBITS INTRODUCED IN EVIDENCE.

RECEIVER'S EXHIBIT No. 1.

Consists of a letter dated May 11, 1927, McManus, Ernst & Ernst to A. F. Lieurance; also a letter dated May 27, 1927, Arthur F. Gotthold to A. F. Lieurance; together with a copy of the Order of Court signed by August N. Hand, United States District Judge, attached to such letters; and which documents are as follows: [410]

(Letter-head of Gotthold, Pitkin, Rosensohn & Travieso.)

May 11, 1927.

AFG/HAP

Re R. A. Pilcher Co.

Dear Mr. Lieurance:

Judge Hand yesterday directed the payment of a second dividend of 10% and also directed the following payments to be made:

McManus, Ernst & Ernst, Ad interim allowance, \$7,500, disbursements \$295.25	\$7,795.25
S. D. Liedesdorf & Co., services to Receivers	5,000.00
Horwitz, Rosston & Hort, allowance for services as attorneys for defendant	1,250.00

William Fraser, as Chairman of
Creditors' Committee, for pay-
ment to Francis J. Heney for ser-
vices rendered 1,500.00
Arthur F. Gotthold, Ad interim al-
lowance 2,500.00

I trust that the dividend can be paid promptly.
Please let me hear from you as to when the checks
will go out.

Very truly yours,

(Signed) ARTHUR F. GOTTHOLD.

A. F. LIEURANCE, Esq.,
1401 Central Bank Building,
Oakland, Calif. [411]

(Letter-head of McManus, Ernst & Ernst.)

May 11, 1927.

A. F. Lieurance, Esq.,
Central Bank Bldg.,
Oakland, California.

Re R. A. Pilcher Co., Inc.

Dear Sir:

Herewith you will find certified copy of the order
directing the declaration of an additional dividend.

Very truly yours,

(Signed) McMANUS, ERNST & ERNST.

WEE/EWD [412]

United States District Court,
Southern District of New York.

In Equity—No. 37/146.

SIDNEY GILSON, HERMAN AVRUTINE and
SAMUEL AVRUTINE, Co-partners En-
gaged in Business as National Garment Co.,
Complainants,

against

R. A. PILCHER CO, INC.,

Defendant.

ORDER.

This cause having come on to be heard this 4th day of May, 1927, on the Fourth Report and Petition of the Receivers herein, and after hearing Irving L. Ernst, Esq., of counsel for the Receivers, and after reading the petitions of the S. D. Liedesdorf & Co., Horwitz, Rosston & Hort and A. F. Gotthold,

Now, on motion of McManus, Ernst & Ernst, attorneys for the Receivers, it is hereby

ORDERED AND DECREED: That a second dividend of ten (10%) per cent be declared and paid to all creditors whose claims have been filed and allowed by the Receivers herein; and it is further

ORDERED AND DECREED: That a second interim allowance of \$2500, be, and the same hereby is allowed to Arthur F. Gotthold, on account of his services as Receiver herein, and that a second

interim allowance of \$7500, together with disbursements of \$295.25, be, and the same hereby is allowed to McManus, Ernst & Ernst, on account of services rendered as attorneys for the Complainants and Receivers herein; and it is further

ORDERED AND DECREED, that the sum of \$5000, be, and the same hereby is allowed to S. D. Leidesdorf & Co. for services rendered to the Receivers and to the Estate of the Defendant as Accountants; and it is further [413]

ORDERED AND DECREED, that the sum of \$1250., be and the same hereby is awarded to Horwitz, Rosston & Hort as attorneys for the Defendant herein; and it is further

ORDERED AND DECREED, that the sum of Fifteen Hundred Dollars (\$1500.) be, and the same hereby is allowed to Creditors' Committee for payments to Francis J. Heney, for special services as counsel rendered herein, and the Receivers are hereby directed to pay out of the funds in their possession the allowances hereby granted.

AUGUSTUS N. HAND,
U. S. D. J.

O.K.—EE.

A true copy.

[Seal]

ALEX GILCHRIST, Jr.,
Clerk. [414]

RECEIVER'S EXHIBIT No. 2.

Consists of the statement prepared and submitted by Edward R. Eliassen concerning the services rendered by him as attorney for the Receivers; and which document is as follows:

(Titles of the four cases in the four western jurisdictions, respectively, mentioned in the evidence.) [415]

I was retained by Mr. A. F. Lieurance on June 3, 1926, when I received Notice of his appointment as one of the Receivers of the R. A. Pilcher Co. Inc. in a proceeding commenced in the United States District Court in and for the Southern Division of New York, and I have acted for the Receivers, A. F. Lieurance and Arthur F. Gotthold, ever since that time as their attorney in the four ancillary jurisdictions and in the proceedings thereafter instituted by me in the United States District Court in and for the Northern District of California, Proceeding No. E 1707; in the United States District Court in and for the District of Oregon, Proceeding No. E 8846; in the United States District Court in and for the Western District of Washington, Proceeding No. E 540; and in the United States District Court in and for the Eastern District of Washington, Proceeding No. E 4293.

These proceedings were instituted at the request of the New York Creditors' Committee and its attorneys, McManus, Ernst & Ernst, Esqs., and at their suggestions I obtained in these four Western jurisdictions the appointment of the same Receivers as were appointed in New York. The proceedings in California were instituted at San Francisco by me on June 9, 1926, and an Order of appointment was obtained on the same day.

On June 14, 1926, the proceeding was instituted at Portland, Oregon, and I obtained Order of Appointment on the same day.

On June 15, 1926, an Order of Appointment was made after proceedings duly taken at Seattle, Washington; and on the [416] 16th of June, 1926, an Order of Appointment was granted at Spokane, Washington.

The defendant Company had a chain of sixteen (16) stores in California, Oregon and Washington, and was engaged in the business of selling merchandise. These stores were located as follows:

Stockton, California;
Turlock, California;
Oroville, California;
Klamath Falls, Oregon;
Albany, Oregon;
Pendleton, Oregon;
Portland, Oregon;
Roseburg, Oregon;
Eugene, Oregon;
Tacoma, Washington;
Monroe, Washington;
Yakima, Washington;
Aberdeen, Washington;
Everett, Washington;
Wenatchee, Washington;
Bremerton, Washington.

Immediately after his appointment as Receiver, Mr. Lieurance took all of these stores into his possession and continued to operate them until they

were sold, between October 25, 1926, and November 3, 1926, a period of about five (5) months; sales of merchandise over the counter were made aggregating \$499,263.28—approximately one-half of a million dollars.

Previously, Mr. Lieurance caused an inventory to be taken as of date June 21, 1926, showing merchandise on hand amounting to \$599,717.72, as follows: [417]

Stockton, California	\$ 43,676.48
Turlock, California	35,111.87
Oroville, California	21,529.93
Klamath Falls, Oregon	49,714.29
Albany, Oregon	24,383.81
Pendleton, Oregon	35,227.30
Portland, Oregon	45,275.38
Roseburg, Oregon	18,646.93
Eugene, Oregon	52,269.38
Tacoma, Washington	57,525.74
Monroe, Washington	28,672.26
Yakima, Washington	45,169.16
Aberdeen, Washington	35,071.24
Everett, Washington	31,800.35
Wenatchee, Washington	33,579.70
Bremerton, Washington	42,063.90
<hr/>	
TOTAL	\$599,717.72

Because of the high fixed charges connected with the stores, it was decided that it would not be profitable to continue operations, and after consulting with some of the principal creditors, it was decided

to sell all of the stores. Steps were then taken to dispose of them. After proceedings duly had and taken, the sales were made and confirmed by the four ancillary Courts as follows, to-wit:

California	\$ 41,000.
Oregon	97,600.
Western Washington	90,000.
Eastern Washington	29,000.
<hr/>	
TOTAL	\$257,600.

The Receiver in the Western jurisdictions therefore obtained for the merchandise sold over the counter and in the sale of the stores a total of \$756,863.28.

The Pilcher Company had many creditors. There were 647 of them located all over the United States and their claims aggregated \$751,860.09. [418]

The creditors have been paid two dividends; dividend No. 1 of 40%, amounting to \$287,517.67; and dividend No. 2, amounting to \$71,879.39, a total of \$359,397.06.

All of the sixteen stores of the defendant Company were under long term leases. The obligations under these leases were considerable. But, fortunately, the sales of the stores were made in large part to individuals who desired to continue the stores and who assumed or took the burden of the obligations under the leases. Not one claim by any Lessor has been filed, except the claim of M. M. Berg of Turlock, California, whose claim was denied. The time within which to present claims

has long since elapsed and there is no further danger of swamping the estate with leasehold obligations.

Throughout the entire administration, up to the present time, I have acted as the attorney for the Receivers in the four Western jurisdictions. I have been obliged to employ local counsel at Portland, Oregon, at Seattle, Washington, and at Spokane, Washington, and with their assistance the legal affairs of the administration have been well taken care of.

My office is in Oakland, California, and in the administration of the estate in the ancillary jurisdictions of Oregon and Washington and California, I have made six trips to Portland, Seattle and Spokane, one trip to Los Angeles and one trip to Stockton. These trips have, in the aggregate, taken me out of the City of Oakland, and away from my office, sixty-four (64) days. It also became necessary for me to go to New York City for the purpose of attending and taking of depositions of Walter E. Ernst, William Fraser and Arthur F. Gotthold. This trip took me away from my office twelve (12) more days. In this estate I have therefore spent Seventy-six (76) days away from my office and outside of the City of Oakland.

I might add that I necessarily employed local counsel in the three northern jurisdictions, and I have incurred the obligation to pay them the reasonable value of their services, which we have agreed is the aggregate sum of \$265. [419]

STATEMENT OF SERVICES RENDERED BY
EDWARD R. ELIASSEN, ESQ., ATTOR-
NEY FOR RECEIVERS A. F. LIEU-
RANCE AND ARTHUR F. GOTTHOLD;
IN THE MATTER OF THE RECEIVER-
SHIP OF THE R. A. PILCHER CO. INC:

1926

June 4.

Spent entire day consulting with and advising Mr. A. F. Lieurance, relative to the Receivership, explaining to him the duties involved and the obligations connected therewith.

Assisted Mr. Lieurance in drafting telegram to Hon. Augustus N. Hand, Judge of the United States District Court of New York City, acknowledging receipt of wire notifying Mr. Lieurance that he had been appointed Receiver; Mr. Lieurance's telegram to Judge Hand, notifying him that he had appointed Edward R. Eliassen as his attorney.

Arranged with Surety Company for bond of Mr. Lieurance as Receiver in the New York jurisdiction.

Drafted and sent telegram to Judge Hand, suggesting that the bond of Mr. Lieurance in the amount fixed by Order of the Court, has this day been forwarded by air mail.

Assisted in preparing and sending three-page telegram to R. A. Pilcher re notice of appointment, and necessity for complete control

of the administration in California, Oregon and Washington, by Mr. Lieurance.

Assisting in preparation of telegram to attorneys McManus, Ernst & Ernst, Esq., of New York City, notifying them of appointment of Edward R. Eliassen as his attorney.

Prepared and sent written notification to Sheriff's office at Stockton, California, stating that Receivers were appointed yesterday at New York and that Mr. Lieurance, my client, will now take full charge of all stores; requesting information concerning all attachments; names of attorneys representing plaintiffs; and also requestng copies of writs in each case.

Letter to Constable at Stockton, notifying him of the Order made yesterday in the Pilcher Company proceeding at New York, appointing Receivers, and stating that Mr. Lieurance, as Receiver, will now take full charge of the California stores of the corporation; also that I would like to know about any attachments levied against the Stockton store and would like to have the names of attorneys representing attaching creditors, and copies of writs in each case. [420]

June 5.

Assisted in drafting and sending telegrams to store managers of the 16 stores of the R. A. Pilcher Co. Inc., situate in California, Oregon and Washington, notifying them of the appointment of Mr. A. F. Lieurance as Re-

ceiver in the New York jurisdiction, together with Mr. Arthur F. Gotthold, and that Mr. Lieurance now takes charge of all the stores here; that until further notice the stores shall be kept in operation; directing moneys in bank and in stores to be sent hereafter to the Receivers, except \$200. to be retained in each store as a revolving fund; directing full daily reports and remittances to be sent to Mr. Lieurance each day; and notifying them that further instructions will follow. These telegrams were sent to:

J. F. Holmes, Turlock, California;
H. L. Bonderant, Oroville, California;
A. B. Swanson, Stockton, California;
Mr. McDonald, Klamath Falls, Oregon;
Mr. Cramer, Roseburg, Oregon;
Mr. Maloney, Eugene, Oregon;
Mr. Eilkerson, Albany, Oregon;
Mr. Millard, Portland, Oregon;
Mr. J. E. Wood, Tacoma, Washington;
Mr. Higgins, Aberdeen, Washington;
Mr. Ostrich, Wenatchee, Washington;
Mr. Pearson, Everett, Washington;
Mr. Fortier, Bremerton, Washington;
Mr. Buchanan, Yakima, Washington;
Mr. Swanson, Monroe, Washington.

June 6. (Sunday)

Worked all day on law concerning Receiver-ships and in the preparation of papers for the institution of ancillary proceedings in the United States District Court in and for the

Northern District of California, the United States District Court in and for the District of Oregon; the United States District Court in and for the Western District of Washington; and the United States District Court in and for the Eastern District of Washington.

June 7.

Continued in the work of preparing papers for the institution of ancillary proceedings in the aforementioned jurisdictions. [421]

Assisted in the preparation and sending of telegrams to New York.

Assisted in preparation of telegram to A. V. Love of A. V. Love Dry Goods Company of Seattle, Washington, re attachments and threatened suits, and the avoidance of bankruptcy.

Prepared and sent telegram to Attorney Wm. W. Peterson of Pendleton, Oregon, re claim of one Gluck in the matter of a suit which had been threatened, asking about any contemplated action and that same be deferred.

Prepared and sent lengthy telegram to Attorney Merrick of Everett, Washington, regarding claim of H. Rosenthal & Sons, in the matter of which attachment was threatened; asking that attachment proceedings be postponed and giving information re affairs of Pilcher Company.

Prepared and sent lengthy telegram to Attorneys Williams and Davis, Everett, Washington, re claim of Security National Bank and

threatened attachment proceedings thereon, asking that same be deferred.

Prepared and sent telegram to Sheriff Hogan at Modesto, California, re appointment of Mr. Lieurance as Receiver.

Sent letter to Attorney Wm. Petersen at Pendleton, Oregon; Attorney Merrick, Everett, Washington; Attorneys Williams & Davis, Everett, Washington; confirming sending of telegrams and urging that action be deferred by them on their several claims.

Prepared and sent letter to J. F. Holmes, Manager of Turlock store, stating that he has already been notified of the appointment of Mr. Lieurance as Receiver, and that I represent Mr. Lieurance; that we have been informed that the store is under attachment; that I have gotten in touch with attorneys and attaching creditors and have arranged to have him substituted as Keeper in the place and stead of Sheriff's Keeper; suggesting in the event of further suits to notify me immediately and to send any copies of Summons and Complaint; making other observations concerning the affairs of the Company and the efforts to be made to conserve the business and its assets.

Got in touch with Attorney Stanley M. Arndt of Stockton, California, one of the attorneys for plaintiffs Humphreys & Matthews, in a case pending in San Joaquin County in the Superior Court, and obtained an agreement

from him that to save expenses of that store and [422] in lieu of Sheriff's Keeper, that the store Manager at Stockton, Mr. Swanson, be substituted; drew up stipulations in the premises and forwarded them to Mr. Arndt by Special Delivery for his signature.

Sent letter to Attorneys McNoble & Arndt, Stockton, California, re Humphreys & Matthews v. R. A. Pilcher Co. Inc, (Proceeding No. 20074, Superior Court of San Joaquin County, California), relative to attachment and withdrawal of Keeper from Stockton store, and giving general information relative to the Equity Proceeding.

June 7.

Called over long distance telephone Attorney Arndt of Stockton and had extended discussion concerning case instituted by him on behalf of Humphreys & Matthews and concerning the attachment and the Sheriff's Keeper in store, and obtaining from him his agreement to be hereafter reduced to writing, that the Sheriff's Keeper might be withdrawn from the store and the store Manager substituted.

Worked on pleadings and drafts of proposed Orders appointing Receivers in United States District Courts of the Districts of Oregon, Western Washington and Eastern Washington.

Consulted and advised with Mr. Lieurance far into the night, to the exclusion of all other business.

June 8.

Assisted Mr. Lieurance in preparing and sending lengthy telegram to A. V. Love of Seattle, one of the largest creditors of the Pilcher Company, concerning his opposition to the placing of the affairs of the Receivers in the hands of the San Francisco Board of Trade; notifying him as to his policy for the present in the matter of bills; notifying him of the restraining Order contained in the Order of appointment, restraining creditors and all others from commencing any actions or proceedings or instituting any actions or proceedings, etc.

Worked on pleadings and Orders re institution of ancillary proceedings in the Courts of Oregon and Washington. [423]

Received letter from H. R. Youngblood, Under-Sheriff of San Joaquin County, dated June 7, 1926, relative to stipulation for appointment of Keeper.

Received letter from Attorneys McNoble & Arndt, giving information re attachments on stores; requesting Mr. Eliassen and Mr. Lieurance to go to Stockton and suggesting that attachments cannot be made anyway where a Receiver has been appointed, and where Receiver has taken possession of property prior to attachment.

Obtained and examined copy of Complaint in attachment suit of E. H. Simard et al v. R. A. Pilcher Co. Inc. (Superior Court of San Joaquin County, Proceeding No. 20083). Telephoned to Attorneys Woodward, Briggs & Blewett of Stockton, California, relative to this case.

Conferred and advised with Mr. Lieurance until a late hour, spending entire day and a good portion of the night in this Pilcher matter, to the exclusion of all other business.

June 9.

Assisted and advised with Mr. Lieurance in the matter of telegrams sent today to R. A. Pilcher re his co-operation and concerning the general policy for the administration of the estate intended for the benefit of the creditors and also of Mr. Pilcher.

Wrote to all of the sixteen store managers, asking them to forward to me at once all copies of Complaints, Summons, Writs of Wattachment, Notice of Lien, and dun letters and that they give me all data and information obtainable concerning these matters.

Wrote to Sheriff of San Joaquin County, asking for all information that he could give concerning levy under writs of attachment; threats of suit and attachments.

Wrote similar letters to the Sheriffs of Stanislaus and Butte Counties, California; Klamath County, Douglas County, Lane County,

Linn County, Umatilla County and Multnomah County, Oregon; Pierce County, Grays Harbor County, Chelan County, Snohomish County, Kitsap County and Yakima County, Washington.

Filed pleadings in United States District Court in and for the Northern District of California at San Francisco and made Motion for appointment of Receivers, and obtained Order appointing A. F. Lieurance and Arthur F. Gotthold as temporary Receivers, fixing their bonds in [424] the sum of \$10,000. each; and containing injunctive provisions along the lines of the Order made by Judge Hand in New York; obtained certified copy of Order of appointment.

Prepared and gave instructions to United States Marshal at San Francisco re service on creditors of copies of Order.

Letter from Attorneys McNoble & Arndt at Stockton, re form of stipulations sent by me and received by them, and concerning changes desired by them.

Consulted and advised with Mr. Lieurance concerning various matters connected with the future of the administration and outlining plans mentioned therewith; spending the entire day and a good portion of the night in this matter, to the exclusion of all other business.

June 10.

Letter prepared and sent to the Clerk of the

United States District Court at San Francisco, handing him certified copy of the Decree made yesterday by the Court in proceeding in equity No. 1707, Sidney Gilson et al vs. R. A. Pilcher Co. Inc., appointing A. F. Lieurance and Arthur F. Gotthold temporary Receivers, and directing the Clerk's attention to that portion of the Order which enjoins, among other things, the issuance out of and Court of any execution, writ, process, summons, subpoena, replevin or attachment, as noted on page 4 of the Order, lines 15 to 18 inclusive.

Letter prepared and sent to Sheriff of San Joaquin County, sending him six certified copies of Order made at San Francisco on the 9th; suggesting that one of these copies is intended for him and that the other copies be served on Attorneys McNoble & Arndt, Humphreys & Matthews, Attorneys Woodward, Briggs & Blewett, R. A. Gildea, and Attorney John Kennedy; and calling his attention to that part of the Order commencing at line 25 on page 3 and continuing to and including the 18th line on page 4, and stating that the Order enjoins all persons, firms and corporations from instituting or prosecuting or continuing the prosecution of any pending actions, suit or proceedings at law or in equity, or under any suit against the said defendant, or from levying any attachments, executions, or other process upon or against

any other property of the defendant, or from taking or attempting to take into their possession any of the property of the said defendant and from issuing or causing the execution or issuance out of any court of any writ, process, summons, subpoena, replevin or attachment. [425]

Letter similar to the foregoing prepared and sent to Sheriff of Stanislaus County, California.

Letter prepared and sent to County Clerk of Stanislaus County, handing him copy of Order appointing temporary Receivers, and calling his attention to injunctive provisions therein contained.

Letter prepared and sent to County Clerk of San Joaquin County, covering the same matter, and handing him copy of Order.

Worked on pleadings and drafts of proposed Orders for use in jurisdictions of Oregon, Western Washington and administrations.

Examined law pertaining to ancillary receiverships and administrations.

Consulted and advised with Mr. Lieurance concerning various matters connected with the administration. On this day I spent over nine hours in this matter, to the exclusion of all other business.

June 11.

Assisted Mr. Lieurance in drafting telegram to A. B. Swanson of Stockton, and fifteen other store-managers, re Receivership and giving

his views in the matter of the bankruptcy petition filed in New York today.

Assisted Mr. Lieurance in drafting letters to all of the sixteen store managers.

Prepared and submitted to Mr. Lieurance statement of costs advanced in the United States District Court at San Francisco, to Clerk and U. S. Marshal, Sheriffs and Constables.

Letter prepared and handed to Mr. Lieurance re memoranda of costs.

Obtained and examined copies of pleadings in the case of G. Swanson, an attachment suit pending in Stanislaus County which was commenced on June 4, 1926.

Worked on pleadings and Orders, and conferred with Mr. Lieurance; spending ten hours this day in the Pilcher matter, to the exclusion of all other business except a few telephone calls. [426]

June 12.

Worked all day on papers intended for use in the matter of the institution of ancillary proceedings in the United States District Courts at Portland, Seattle and Spokane.

Left for Portland in the evening.

June 13.

En route to Portland.

June 14.

At Portland, Oregon.

Instituted ancillary proceedings and appeared before Judge Robert S. Bean and obtained

Order appointing Arthur F. Gotthold and A. F. Lieurance temporary Receivers and fixing their bonds in the sum of \$10,000. each; restraining all creditors and others from prosecuting any actions or proceedings (following the lines of the orders made in New York City and San Francisco).

Arranged for bond of Mr. Lieurance and had same approved and filed.

Arranged with U. S. Marshal for service of copies of Orders.

Arranged for and obtained certified copies of Orders.

Interviewed H. S. Millard, Manager of Portland store, and conferred with him at length concerning creditors and concerning an action pending against the Pilcher Company in which Plowden Stott, Esq., with offices in the Yeon Building, Portland, Oregon, appears as the attorney for the defendant.

Called on Attorney Stott with Mr. Millard and had long interview concerning this unit.

Went to office of Portland Oregonian and arranged for publication of notices, forms of which were to be hereafter forwarded.

Called at office of Chamberlain, Thomas & Kraemer, attorneys for Wiley Investment Company, re proposed bond to be given Wiley Investment Company in the matter of lien. [427]

Assisted in the preparation and sending of telegrams to all store managers in Oregon

and Washington, asking them to meet Mr. Lieurance and me at Portland on Saturday, the 19th, for a conference and for instructions.

Met and conferred with a number of attorneys representing creditors, whose names I have mislaid or forgotten.

June 15.

At Seattle, Washington.

Instituted ancillary proceedings and appeared before Judge Jeremiah Neterer and presented him with application and obtained order appointing A. F. Lieurance and A. F. Gotthold temporary Receivers and fixing their bond in the sum of \$10,000. each, designating Seattle Daily Journal of Commerce as the newspaper for the publication of notices and containing injunctive provisions similar to those contained in the Orders made at New York, San Francisco and Portland.

Arranged with Earl A. Davis, Manager of Globe Indemnity Co., Alaska Building, Seattle, for bond of Receiver Lieurance and had same approved and filed.

Arranged with Clerk of Court for certified copy of Order.

Arranged with U. S. Marshal for service of copies of Order.

Called at office of Seattle Daily Journal of Commerce and arranged for publication of notices.

Called at office of Mr. A. V. Love, of A. V. Love Dry Goods Company, one of the largest creditors of the R. A. Pilcher Co. Inc. and had long interview with him concerning the affairs of the Pilcher Company and the Receivership.

Attended with Mr. Love and Mr. Lieurance a meeting of the Seattle Merchants Credit Association called for the purpose of discussing the affairs of the Pilcher Company, and participated in a discussion giving my views of the situation as it then stood, and outlining plans for the future of the administration.

Consulted and advised with Mr. Lieurance.

Conferred with a number of attorneys representing creditors, whose names I do not now remember. [428]

June 16.

At Spokane, Washington.

Instituted ancillary proceedings and appeared before Judge J. Stanley Webster and obtained Order appointing A. F. Lieurance and Arthur F. Gotthold temporary Receivers, fixing their bonds in the sum of \$10,000. each and containing the same restraint provisions as contained in the Orders previously secured in the other jurisdictions; and designating Spokane Weekly Chronicle as the Newspaper for the publication of notices.

Arranged for and obtained certified copies of Order.

Arranged with United States Marshal for service of copies of Orders.

Called at office of Spokane Weekly Chronicle and arranged for publication of notices.

Called on Mr. Meikle, Secretary of Spokane Merchants Association, with Mr. Lieurance, and on Fabian Dodds, Esq., attorney for the Association; also on Mr. J. D. Payne of the Crescent Dry Goods Company, and explained to them the situation, giving them our ideas concerning the outlook for the creditors and concerning the administration of the Receivers.

June 17.

At Seattle all days conferring with creditors and attorneys, and consulting with and advising Mr. Lieurance.

June 18.

At Seattle, starting for Oakland.

June 19.

At Portland, Oregon.

Attending with Mr. Lieurance a meeting lasting all day with the store managers of the Pilcher Company. Going over the situation of the affairs of the Company and giving advice.

June 20.

En route from Portland to Oakland. [429]

June 21.

En Route.

Letter received at my office from McManus, Ernst & Ernst of New York City, handing me bond of Receiver Gotthold for filing in Oregon, and asking for information concerning condition of stores.

June 22.

Returned from Portland and Northwest.

Wrote long letter to Attorneys McManus, Ernst & Ernst stating that we had just returned from the Northwest and suggesting that before going to the Northwest, we instituted ancillary proceedings in the United States District Court at San Francisco, and that in the Northwest we instituted similar proceedings in the United States District Courts at Portland, Seattle and Spokane; that in each jurisdiction we obtained Orders appointing A. F. Lieurance and Arthur F. Gotthold as temporary Receivers, without the appointment of any local Receivers; that certified copies of the Orders in the Northern California jurisdiction had already been served upon the Sheriffs, Constables and attaching creditors, and had been given to Clerks of various Courts within that jurisdiction, and reporting generally what had already taken place here in the West.

Received and examined bonds furnished at New York on behalf of Mr. Gotthold for use in the Western jurisdictions, and had them forwarded to the Clerks of the various Courts here in the West.

Consulted and advised with Mr. Lieurance the remainder of the day; spending eight hours this day in the matter of the affairs of the Pilcher Company.

June 23.

Prepared and had executed affidavits of mailing of notices to creditors; sent letter and affidavit of mailing to Clerk of the U. S. District Court at Portland requesting that affidavit be filed in the proceedings.

Conferred with Mr. Lieurance most of the day. Worked on draft of proposed notice to creditors to be given of time and place for hearing on petition to make Receivership permanent.

[430]

June 24.

Letter received from G. H. Marsh, Clerk of the U. S. District Court at Portland, acknowledging receipt of bond of Arthur F. Gotthold, and stating that Judge Bean approved same and that it had been filed.

Worked on draft of proposed application for Order in each of the Western jurisdictions, permitting Receivers to continue the operation of the business and to purchase merchandise.

Worked on draft of proposed Orders in the premises.

Consulted and advised with Mr. Lieurance for over three hours; spending seven hours in work of Pilcher matter.

June 25.

Went to Stockton, California, with Mr. Lieurance and Mr. Phillip A. Hershey, the Auditor, and spent all day; had conference with store manager; called at Sheriff's Office and presented written demand already prepared by me, that he turn over all of the moneys in his possession taken under attachments; went with him to his attorneys, Levinsky & Jones, Esq., and discussed matter of demand and the legal effect of the provisions of the Order of appointment concerning the property of the defendant Pilcher Company; called at office of Attorneys McNoble & Arndt in United Bank & Trust Bldg.; arranged for withdrawal from store of Sheriff's keeper and for the release of the attachment on the account of the Company in Bank of Italy; drafted, prepared and had signed Petition of Receivers for Order to Show Cause directed against Sheriff W. H. Reicks, Sheriff of San Joaquin County, directing him to show cause why he should not turn over all moneys in his possession under attachment to the Receivers.

Prepared draft of proposed Order to Show Cause to be directed against Sheriff Reicks.
Consulted and advised with Mr. Lieurance.

June 26.

Appeared before Judge St. Sure at San Francisco and presented Petition for Order to Show Cause and obtained such an Order,

directing Sheriff Wm. H. Reicks to appear before the Court on Wednesday, June 30, 1926, at the hour of two o'clock P. M.

Obtained certified copy of this Order and arranged for *it* service upon the Sheriff. [431]

Wrote letters concerning this Order and the date fixed for the hearing to the Sheriff's Attorneys, Levinsky & Jones, and to Mc-Noble & Arndt, attorneys, and who represented one of the attaching creditors, sending them copies of the Petition and of the Order and calling their attention to the time fixed for the hearing.

Letter received from O. H. Fithian re Portland lease of Wright Shoe Co. with R. A. Pilcher Co. Inc.

Letter sent to Board of Trade at San Francisco, enclosing release of attachment signed by Sheriff Wm. H. Reicks, dated June 25, 1926, requesting that attachment be immediately released on both general and special accounts of Pilcher Company.

June 26.

Worked on form of notice to creditors to present claim.

Met and conferred with several attorneys representing creditors.

Consulted with and advised Mr. Lieurance for several hours.

June 29.

Had conference with Mr. Lieurance lasting all day, re condition of stores; re inventory of

all stocks and fixtures; re policy of administration.

Sent letter to Clerk of U. S. District Court at Spokane, acknowledging receipt of letter.

Received letter from Clerk of U. S. District Court at Spokane acknowledging receipt of five copies of Order which have been forwarded, as requested to Marshal for service.

June 30.

Appeared in Court at San Francisco before Judge A. F. St. Sure and made showing on Petition for Order authorizing Receivers to continue operation of stores of Pilcher Company and to purchase merchandise.

Obtained such an Order. [432]

Appeared also in Judge St. Sure's Court in the matter of the Order to Show Cause directed against Sheriff Reicks of San Joaquin County; on the request of McNoble & Arndt, representing one of the attaching creditors, the matter was continued until August 9th.

Prepared draft of proposed Petition and Order authorizing said Receivers to continue operation of stores and to purchase merchandise as needed, and sent same to Judge Neterer at Seattle, Judge Bean at Portland and Judge Webster at Spokane, with letters of explanation.

Had long conference with Attorney Walter E. Ernst of New York City, of the firm of McManus, Ernst & Ernst, and with Mr. Lieurance, discussing various matters relating to

the administration; this conference lasting far into the night.

Letter received from D. T. Ham, U. S. Marshal at Spokane, enclosing statement covering fees and costs of service.

July 1.

Long conference with Attorney Walter E. Ernst, one of the attorneys representing the New York Receiver.

Received telegram from U. S. Marshal at Seattle, giving estimate of Marshal's fee.

Wrote letter to Clerk of U. S. District Court at Portland, relative to Order and asking certified copy thereof.

Conferred with Mr. Lieurance and with Mr. Hershey re accounting and reports.

Met and conferred with several creditors in Mr. Lieurance's office.

Had long conference with Attorney Walter E. Ernst and with Mr. Lieurance concerning various matters connected with administration.

July 2.

Prepared and sent letter to G. H. Marsh, Clerk at Portland, enclosing check for \$73.60 to cover fee for certification of copy of Order of June 14, 1926.

Received telegram from Clerk of Court at Portland, acknowledging receipt by Judge Bean of Petition of A. F. [433] Lieurance for leave to purchase merchandise, and stating that Order was signed as prepared by me and

that Petition and Order were filed July 2, 1926.

Met and conferred with two attorneys representing creditors in Mr. Lieurance's office.

Long conference with Mr. Lieurance and Mr. Ernst, which lasted the greater part of the day.

Sent check to U. S. Marshal at Seattle, enclosing check of \$250, in payment of Marshal's fee.

July 3.

Prepared and sent lengthy letter to McManus, Ernst & Ernst, giving a full report and reporting attachment suit of Humphreys & Matthews brought June 3, 1926, for recovery of \$3348.25, and that McNoble & Arndt appeared as attorneys for plaintiff. In this suit attachments were levied on June 3rd and a Keeper was placed in charge of the store. In this and in several other matters, the Sheriff had already taken into his possession the sum of \$7839.51 and had levied upon two accounts of the Company in the Bank of Italy at Stockton. The report was made, also, to the claim of Schuler-Ruh Co., upon which suit had been brought on June 7, 1926. Guard C. Darrah, Esq., appeared as attorney for plaintiff and caused attachments to be levied. I also reported an attachment suit then pending growing out of the claim of H. Rosenthal & Sons Inc. and Lew L. Gluck (both previously assigned to

G. Swanson); of E. A. Simard and W. W. Mathes for the recovery of \$993.90; also the suit commenced in the Superior Court of San Joaquin County by Attorneys Woodward, Briggs and Blewett, on behalf of their client, in which attachments were levied; also suit of Grace Cutting, as assignee of Haymon-Krupp Co., for \$1244.39, pending in Superior Court of San Joaquin County, California, attorneys for the plaintiff being J. W. Brown and W. H. Chamberlain, Esqs., and attachments also having been levied in this case; also suit of C. B. Sherman and R. G. Wise, reduced to judgment; attachments were levied in this case also. Also attachments suit of R. A. Gildea for \$3,000., pending before the institution of Receivership proceedings, in which Attorneys Foltz, Rendon & Wallen appeared as attorneys for the plaintiff; also the claim of Lamb & Horrocks, for \$1801.90, for labor and materials claimed to have been furnished in connection with store fixtures in the Elks' Building, Aberdeen, Washington; also claim of L. A. McCullough for labor, work and materials furnished in connection with Aberdeen store.

Worked on preparation of notice to creditors.

[434]

Received wire that Judge Neterer of Seattle had this day signed Order which I had previously sent to him for his signature, author-

izing the continued operation of the stores and the purchase of necessary merchandise in connection therewith.

July 5.

Worked most of the day on the law concerning Receiverships and ancillary administrations.

Spent some time in the examination of leases on the Pilcher stores in California.

Received letter from G. H. Marsh, Clerk of Court at Portland, concerning receipt of exemplified copies of pleadings and stating that they had been filed.

July 6.

Spent all day examining leases and consulting with Mr. Lieurance and with Attorney Walter E. Ernst of New York.

July 7.

Continued with examination of leases and had long conference with Attorney Ernst of New York.

July 8.

Received wire from Clerk of Court at Seattle, acknowledging receipt of five additional copies of Order and notifying me that Joseph Lowenthal, creditor, is located at Yakima and not at Seattle.

Continued examination of Pilcher Company leases.

Had long conference with Mr. Lieurance and Mr. Hershey and with Attorney Walter E. Ernst of New York.

July 9.

Received telegram from Attorney Stott of Portland, notifying me that Wiley Investment Company, owner of Pilcher Co. store at Portland, has served written [435] notice that lease will be cancelled unless lien of Kilgreen & Flynn is removed; stating that original lease, and in all sub-leases, the lessee agrees to keep the property free from liens and that a failure to remove the same operates as a cancellation and termination of the original lease and all sub-leases; that lien of Kilgreen & Flynn amounts to \$6102.37; suggesting also that there is question as to whether or not lien could be successfully foreclosed, but that the creditors should either be paid in full and the lien released, or a bond given to pay same in the event of judgment; suggesting also that he had obtained a week extension and that he would await instructions from me.

Wrote letter to U. S. Marshal at Portland, acknowledging receipt of his telegram of July 8th and sending him Receiver's check as requested, to cover Marshal's fee.

Received letter from Attorneys Simon, Gearin, Humphreys & Freed, of Portland, Oregon, enclosing copy of lease of Wright Shoe Co. and the Pilcher Company.

Received letter from O. H. Fithian dated July 7, 1926, re above mentioned lease.

Continued examination of leases and examined the law concerning certain provisions.

Conferred and consulted with Mr. Lieurance for several hours.

July 10.

Continued examination of leases and the law relating to certain provisions thereof.

Telegram received from Harry C. Clark, Clerk of Court at Spokane, in reply to my wire, stating that Judge Webster would hear motion on July 28, 1926; and also stating that Judge Webster had signed Order today granting Receiver Lieurance the right to purchase merchandise, and that this Order had been filed.

Conferred and advised with Mr. Lieurance and Mr. Hershey for several hours.

July 12.

Received telegram from G. H. Marsh, Clerk of Court at Portland, in reply to a wire from me, that Judge Bean would be in Portland on Monday, July 26. [436]

Received wire from Clerk of U. S. District Court at Seattle, that the date mentioned in my request for a hearing, will not be agreeable for the reason that Judge Neterer will be in Tacoma at that time.

Prepared affidavit of mailing notices to creditors of time fixed for hearing on appointment of permanent Receivers in the U. S.

District Court of Northern California, at San Francisco.

Had long conference with Mr. Lieurance.

July 13.

Met three creditors and one attorney in the office of Mr. Lieurance, and conferred with them at some length.

Telegram received from U. S. Marshal at Portland, re his account for services.

Consulted and advised with Mr. Lieurance and Mr. Hershey for upwards of two hours.

July 14.

Continued examination of Pilcher leases.

Consulted and advised with Mr. Lieurance for several hours.

July 15.

Spent most of day in consultation with Mr. Lieurance and Mr. Hershey and in the examination of Pilcher leases.

Received letter from Attorneys McNoble & Arndt, dated July 14, 1926, enclosing so-called "Priority Claim" of Dave Matthews, and stating that this was presented pursuant to the suggestion of Mr. Walter E. Ernst; requesting check in payment thereof and confirming our understanding over the telephone concerning the attachment costs.

July 16.

Spent most of day working on drafts of proposed Orders continuing Receivers and in the

examination of the law in the premises.

[437]

Received telegram from Attorney Plowden Stott of Portland, suggesting that Royal Indemnity Company of San Francisco will make arrangements with me concerning bond in lien matter of Kilgreen & Flynn.

Wire received from Attorney Stott concerning telegram of the 15th.

Received letter from Attorneys Simon, Gearin, Humphreys & Freed of Portland, sending me copy of lease and asking where claim of their client should be sent.

Letter dated July 14th received from Attorneys Bronson, Robinson & Jones, of Seattle, re claim of Harper-Buchner Co.

July 17.

Worked on preparation of first Report of Receivers for filing in U. S. District Court at San Francisco.

Consulted and advised with Mr. Lieurance for several hours.

July 18. (Sunday)

Worked all day on preparation of Report of Receivers.

July 19.

Consulted with Mr. Lieurance and Mr. Hershey, and worked all day on Report of Receivers to be filed in the U. S. District Courts at San Francisco, Portland, Seattle and Spokane.

July 20.

Worked all day on Reports of Receivers.

July 21.

Continued to work on first Report of Receivers. Consulted and advised with Mr. Lieurance for several hours. [438]

July 22.

Prepared and had completed Reports of Receivers for use in Western jurisdictions. Letter received from McManus, Ernst & Ernst, dated July 16, 1926, stating that in compliance with my telegraphic request, they are sending me six additional copies of Order appointing Receivers.

July 23.

Prepared and sent letter to Clerk of U. S. District Court at Portland, notifying him that we have sent, under separate cover, application for an Order making Receivers permanent, and suggesting that we would like to have the motion heard on Monday, July 26th, if possible.

Prepared notice to creditors of application to make Receivers permanent.

Wrote letter to Portland Oregonian, enclosing draft of proposed notice and asking that it be published in that paper once a week for four weeks, and that the publication be started at once.

Consulted and advised with Mr. Lieurance for several hours.

July 24.

Letter prepared and sent to McNoble & Arndt, Esqs., Stockton, California, handing them check of receiver for \$1,000 as compromise settlement in the matter of the suit of Humphrys and Matthews, and in full settlement of priority claim; stating our understanding that upon receipt of this money, all attachments levied in the suit shall be released.

Letter received from McManus, Ernst & Ernst, stating that they are sending me additional copies of Orders making Receivership permanent in New York jurisdiction, and enclosing letters for reply received from A. V. Love Dry Goods Company; Schall Mfg. Co.; F. M. Hoyt Shoe Co. and the Multigraph Co.

Consulted and advised with Mr. Lieurance for several hours and left in the evening for Portland, Oregon. [439]

July 25.

En route to Portland, Oregon.

July 26.

At court at Portland. . .

Presented application for Order making Receivers permanent and obtained Order signed by Judge Bean.

Obtained certified copy of this Order and served copy thereof on local office of Bonding Company that furnished bond of Receipt Lieurance.

Received at Portland and duly considered a lengthy wire from Attorney Stanley Arndt of Stockton, California, forwarded to me in care of Judge Bean's Court at Portland, relating to check received from Receivers and suggesting that attachments be not released at once; that he will make no appearance in Court at San Francisco on August 9th and we will then be entitled to Court order requiring Sheriff of San Joaquin County to turn over moneys to Receivers.

July 27.

At Court in Seattle.

Presented application for Order making Receivers permanent. Hearing continued until July 29th.

Left for Spokane.

July 28.

At Court at Spokane.

Presented application to make Receivers permanent and obtained such an Order.

Obtained certified copies of Order and served one copy thereof on local office of Bonding Company which furnished bond of Receiver Lieurance.

Received at office letter from McNoble & Arndt, confirming telegram sent; acknowledging receipt of check; and suggesting that attachment be continued that *that* they will make no appearance upon the hearing of the Order to Show Cause directed against Sheriff Reicks. [440]

July 29.

In Court at Seattle.

Presented application for Order making Receivers permanent and obtained Order as prepared.

Obtained certified copies of Order and served one copy thereof, as required, on bonding company at Seattle which furnished bond of Receiver Lieurance.

Letter sent from my office to Attorney McNoble & Arndt of Stockton, California, acknowledging receipt of their letter of July 27th, and stating that upon my return from the Northwest the matter mentioned would be called to my attention.

July 30.

Left Seattle for Oakland.

Received at office telegram from Portland, Oregonian stating that the 65 proof slips of Notice being published are being sent me today.

Received letter from U. S. Marshal at Spokane enclosing statement covering fees and costs.

July 31.

En route from Seattle to Oakland.

Received at office telegram from R. T. Cookingham, Sheriff at Pendleton, Oregon, stating that unless taxes amounting to \$1244. are paid by Thursday, he will take over store.

Received at my office, telegram from Attorney Stott acknowledging wire of even date and

stating that Sheriff of Umatilla County will accept check for \$523.32 for 1925 taxes and interest to date, and will take no action if such check is received by Saturday this week; stating that the Board of Equalization meets on September 13; stating also that the Sheriff suggested that the 1926 taxes seemed pretty high.

August 1.

En route from Seattle to Oakland. [441]

August 2.

Letter dated July 7th, received from Attorney Plowden Stott of Portland, re bond of Receivers given to Wiley Investment Company, together with six copies of bond; also copies of letters to Attorneys Chamberlain, Thomas & Kramer, and Milarkey, Seabrook & Dibble, concerning this bond matter; also concerning payment of premiums on bond for release of attachment on Portland store; also concerning appointment by me of Mr. Stott as my local counsel in Oregon.

Letter dated July 27th received from G. H. Marsh, Clerk of Court at Portland, sending me three certified copies of the Order appointing Receivers.

Letter dated July 30th from Plowden Stott, requesting sending of check to Martin & Campbell to cover premium on Receiver's bond given to Wiley Investment Co.

August 3.

Prepared and sent letter to Attorneys McManus, Ernst & Ernst, at New York City, notifying them of the Order made by the U. S. District Court of Oregon on July 26th, making Receivers permanent; of Order made on July 29th at Seattle and of Order made on July 28th at Spokane; with this letter I sent certified copies of the Order made in California, Oregon, Western and Eastern Washington, making the Receivers permanent, and requested McManus, Ernst & Ernst to serve on Bonding Company at New York which furnished bond of Arthur F. Gotthold these certified copies thereof.

Served on office of Globe Indemnity Company, which furnished bonds of Mr. Lieurance, as temporary Receiver, certified copies of Orders by the U. S. District Courts at San Francisco, Portland, Seattle and Spokane, making Receivers permanent.

Prepared and sent letter to Attorney Stott replying to his letters of July 27th and 30th sent me while I was attending to Pilcher Company business in the Northwest, and suggesting that the Auditor for the Receivers had already sent check to N. E. Newland Co. covering premium on bond given for the release of the attachment placed against the Portland store; suggesting that their bill for bond against lien will be paid through the Oakland office of the Globe Indemnity Com-

pany in accordance with understanding, and suggesting that as soon as I can get information concerning the lien against the Eugene store of the Pilcher Company, I will forward it to him.

Consulted and advised with Mr. Lieurance for several hours. [442]

August 4.

Continued examination of Pilcher Company leases and the law respecting the same.

sent

Letter/to Attorneys McNoble & Arndt of Stockton, replying to theirs of July 27th,; stating that their suggestion as to the filing of releases is a good one and that nothing further will be done until the hearing on the Order to Show Cause on August 9th.

Met and conferred with several creditors of the Pilcher Company in the office of Mr. Lieurance.

Consulted and advised with Mr. Hershey, the Auditor.

Letter sent to U. S. Marshal at Spokane, enclosing check in the sum of \$77.45 in payment of fees and expenses.

August 5.

Letter dated August 3rd received from Clarence R. Hotchkiss, Marshall at Portland, re additional costs.

Letter received from Attorneys Levinsky & Jones of Stockton, California, enclosing An-

swer of respondent, Sheriff Wm. H. Reicks of San Joaquin County in the matter of the Order to Show Cause set for hearing next Monday; suggesting that the matter may be submitted then; asking me to admit service on original and cause it to be filed; also asking me to advise them of the result of the Order to Show Cause matter.

Examined with care the Answer of Sheriff Reicks to the Order to Show Cause which comes up next Monday, August 9th, in the U. S. District Court at San Francisco.

Letter dated August 4th received from Globe Indemnity Company, acknowledging my letter of the 3rd enclosing certified copies of the Orders made by the U. S. District Courts in the Northern jurisdictions on July 26th, 28th and 29th.

Consulted and advised for several hours with Mr. Lieurance and Mr. Hershey.

August 6.

Continued examination of Pilcher Company leases.

Letter sent to Seattle Daily Journal of Commerce requesting that 85 more proof slips of Notice to Creditors be sent to this office at once. [443]

Letter sent to U. S. Marshal at Portland re check for balance of account.

Letter sent to Attorneys Levinsky & Jones of Stockton, California, replying to their letter

of the 5th inst., and stating that I had written my admission of service upon the original Answer of the Sheriff and had it filed in the Order to Show Cause proceeding.

Had long conference with Mr. Lieurance and Mr. Hershey.

August 7.

Letter prepared and sent to Portland, Oregonian, stating that we had not received proof slips of publication of Notice and that we are in need of 65 slips at once.

Letter to Oakland Tribune enclosing draft of Notice to be published in that paper once a week for four weeks and asking that publication start at once.

Letter to Spokane Weekly Chronicle, stating that proof slips had not been sent us and requesting that they be sent at once.

Letter dated August 7th received from Globe Indemnity Company, requesting execution of application blank for bond of Receiver.

Consulted and advised at some length with Mr. Lieurance.

August 9.

Appeared in U. S. District Court at San Francisco in matter of Order to Show Cause directed against Sheriff Reicks of San Joaquin County, California, which was originally on the calendar for June 30th and which was continued to this day. At the request of Attorney Henry Dinkelspiel, claiming to repre-

sent Gildea & Co., one of the attaching creditors, the matter was put over one week.

Letter sent to Sheriff of Stanislaus County, California, sending Stipulation in the matter of Humphreys & Matthews vs. Pilcher Company, stipulating that the moneys in his hands under attachment may be turned over to Receiver Lieurance; also asking him to forward moneys at once in accordance with stipulation.

Letter to Sheriff of San Joaquin County, enclosing Stipulation in the case of Humphreys & Matthews, relating to release of attachments and asking for remittance. [444]

Letter sent to Attorneys McNoble & Arndt at Stockton, California, re Humphreys & Matthews, stating that Attorney Henry Dinkelspiel of San Francisco, is appearing for one of the attaching creditors, and that he is making some opposition to the Order to Show Cause; also that he had asked for a continuance which had been granted him, and stating that I am today sending stipulations concerning release of attachments to the Sheriffs of San Joaquin and Stanislaus Counties.

While at U. S. District Court in San Francisco, I presented application for Order making Receivers permanent which said Order was granted.

Had several *conference* with Mr. Lieurance during day.

August 10.

Wrote letter to Mr. Lieurance, suggesting that while at San Francisco on Monday, August 9th, application was made on his behalf for an Order making the Receivers permanent; that I had obtained such an Order and certified copies thereof, and had served a copy thereof on the Globe Indemnity Company, and had forwarded another certified copy to Attorneys McManus, Ernst & Ernst to be served on the Bonding Company that furnished Mr. Gotthold's bond in this jurisdiction; also notifying him that Attorney Henry Dinkelspiel, representing Gildea & Co., came into the matter in the Order to Show Cause directed against Sheriff Reicks of San Joaquin County, and that at his request a continuance of the Order to Show Cause was had and the matter was put over until Monday, August 16th.

Prepared and sent letter to McManus, Ernst & Ernst at New York notifying them that Judge St. Sure had made an Order making the Receivers permanent and also stating that the matter of the Order to Show Cause, directed against the Sheriff of San Joaquin County, was continued one week at the request of Attorney Dinkelspiel; also sent certified copy of Order making receivers permanent for service upon Bonding Company at New York.

Caused certified copy of Order made at San Francisco on the 9th, to be served on the Globe Indemnity Company.

August 11.

Spent all day in conference with Mr. Lieurance and Mr. Hershey. [445]

August 12.

Continued examination of leases covering Pilcher Company stores, and examination of law connected therewith.

Letter received from Spokane Weekly Chronicle enclosing statement for publication of notice amounting to \$6.03; stating that affidavit of publication would be made at date of last publication.

Letter dated August 10th received from Attorney J. K. Carson, Jr., concerning claim of his client, the Stage Publishing Company. Had several *conference* with Mr. Lieurance during the day.

August 13.

Wrote letter to Attorney Plowden Stott at Portland relative to sundry matters, including claim against the store at Eugene, Oregon.

Letter received from Globe Indemnity Company, dated August 11th, acknowledging receipt of certified copy of Order of the U. S. District Court of Northern California, dated August 9, 1926.

August 14.

Wrote letter to Attorney J. K. Carson, Jr., of

Portland, relative to the claim of the Stage Publishing Co., and stating where claim is to be presented and that it will be considered in the due course of the administration.

Letter dated August 10th received from Attorney Stott in reply to mine of August 3rd, and stating that there are no new developments except that the attorneys for Kilgreen & Flynn are disturbed over the fact that we had given a bond to the Wiley Investment Company.

August 16.

Examined law concerning priority of claims.

Letter to Spokane Daily Chronicle acknowledging receipt of theirs of August 12th and enclosing check in the sum of \$6.03 in payment of bill.

Conferred several times during day with Mr. Lieurance and Mr. Hershey; spending five hours in all on Pilcher Company matters.
[446]

August 18.

Conferred with Mr. Hershey.

Spent several hours with Mr. Lieurance in consultation.

Examined a number of creditors' claims.

August 19.

Examined number of claims of creditors.

Letter sent to Sheriff of Stanislaus County, reminding him that we sent stipulation au-

thorizing him to turn over certain moneys under attachment to Receiver A. F. Lieurance and suggesting that so far we had had no word; also requesting him to forward moneys at once.

Had several conferences during day with Mr. Lieurance.

August 21.

Letter received from Attorney Joseph Kirk of the San Francisco Board of Trade, stating that he had called a meeting of the creditors who had filed claims with the Board of Trade, asking them to meet with Mr. Lieurance and me on Tuesday, August 24th.

Spent several hours with Mr. Lieurance in consultation.

August 23.

Received and examined Notice of Lien of F. W. MacEachron (doing business under firm name and style of Hoquiam Electric Company); this lien being based upon claim for electric fixtures, the value of which he claims to be \$526.82.

Letter sent to Globe Indemnity Company, stating that bond had been just received from New York; that bond was not suitable for that jurisdiction and enclosing same for credit.

Letter sent to Attorneys McManus, Ernst & Ernst, acknowledging receipt of bond returned and stating that bond had been returned to Bonding Company for credit.

Letter received from McManus, Ernst & Ernst, dated August 18th, acknowledging receipt of my letter of the 10th enclosing copy of Order making Receivers permanent, [447] and stating that they are serving copy of Order on the Surety Company that went on Mr. Gotthold's bond; also stating that similar notices, in response to my letter of the 3rd, had been served.

Letter dated August 18th received from McManus, Ernst & Ernst, returning Surety Company bond requested by me in my letter of the 3rd.

Examined and passed upon several claims of creditors.

Consulted and advised with Mr. Lieurance for several hours.

August 24.

Met with Mr. Lieurance at the office of San Francisco Board of Trade and went over matters in general with the few creditors who were then present.

August 25.

Examined a number of creditors' claims and passed upon them.

Conferred several times during day with Mr. Lieurance and Mr. Hershey.

Further examination made of law relative to priority claims.

August 26.

Called at office of Attorney Joseph Kirk, of San

Francisco Board of Trade, and gave me copies of Orders made in the Various administrations, together with copies of some correspondence, and discussed at some length with him and Mr. Lieurance the advisability of selling the stores.

Wrote another letter to the Portland Oregonian, calling attention to our previous requests for proof slips and urging that they be sent at once.

Letter received from Oakland Tribune, enclosing 200 copies of notice being published in that paper. [448]

August 27.

Sent letter to U. S. Marshal at San Francisco acknowledging receipt of check of \$73.50 as rebate on account of deposit.

Sent telegram to Portland, Oregonian, demanding immediate mailing of proof slips of publication as previously *request*.

Wrote letter to Attorneys Simon, Gearin, Humphreys & Freed, acknowledging receipt of copies of lease made between Wright Shoe Company and R. A. Pilcher Co. Inc. under date January 19, 1926, and suggesting that the claim of their client be forwarded to the Receiver, A. F. Lieurance, at Oakland.

Prepared and sent letter to O. F. Fithian at Portland, acknowledging receipt of Pilcher lease.

Letter received from Attorney W. J. Brown of Modesto, California, re suit against Pilcher

Company instituted by him on behalf of client, in Superior Court of Stanislaus County, and giving at length his views of the claim of his client and his reasons for considering the claim one entitled to priority. Consulted several times with Mr. Lieurance and Mr. Hershey during day.

August 28.

Letter received from Attorneys Dinkelspiel & Dinkelspiel of San Francisco, stating that they had had telephone conversation with Attorney Arthur Levinsky of Stockton re Order to Show Cause directed against Sheriff Reicks to the effect that the Sheriff cannot be in Court next Monday and requesting that matter go over one week.

Conferred with Mr. Lieurance several times during day.

August 30.

Letter received from Attorneys Dinkelspiel & Dinkelspiel re Order to Show Cause in the Sheriff Reicks matter.

Attended Court in the matter of Order to Show Cause and consented to continuance of one week.

Had long conference with Mr. Lieurance during afternoon. [449]

August 31.

Received and examined wire from Sheriff Cookingham of Pendleton, Oregon, threatening to close Pendleton Store unless tax

of \$1244. be paid by Thursday noon, September 2, 1926.

Prepared and sent telegram to Attorney Plowden Stott, my local counsel at Portland, Oregon, notifying him of above threat; stating that I understand Board of Equalization meets in September and that we desire to present matter of tax to said Board for the reason that tax now demanded includes assessment for previous year upon previous store not owned by Pilcher Company, and requesting that Mr. Stott, if possible, arrange with Sheriff to defer threatened action until matter of validity of tax is determined.

Sent letter to Sheriff Cookingham concerning the foregoing.

Sent letter to Attorney Plowden Stott, confirming telegram mentioned above.

Wrote letter to Attorney Joseph Kirk of San Francisco Board of Trade, re suggestion of Mr. Walter E. Ernst as to association of Mr. Kirk with me, and stating that if such association would mean a payment of part of my fee to him, that I would prefer not to have this assistance.

Sept. 1.

Prepared and sent lengthy telegram to Attorney Stott at Portland, suggesting my belief that service upon the Tax Collector, Assessor and Sheriff in the tax matter, might prevent authorities from taking over the

store as threatened; stating my belief that the 1925 tax should be assessed to and paid by the Crescent Dry Goods Company; suggesting also that if payment be made now, it must be under protest.

Received and considered telegraphic reply from Attorney Stott, suggesting that we make payment under protest and that by so doing we may expect a substantial reduction in the amount of the 1926 tax; suggesting also that the Board of Equalization meets on September 13th.

Letter dated August 27th received from Portland Oregonian re proof slips, and affidavit of publication.

Sent letter to Attorney W. J. Brown of Modesto in reply to his asking for his views in the matter of the claim of his client.
[450]

Conferred several times during day with Mr. Lieurance and Mr. Hershey.

Sept. 2.

Prepared and sent wire to Attorney Plowden Stott notifying him that check of Receivers to take care of 1925 tax was being forwarded today; that payment is made under protest and that we will furnish information to him for use at the hearing of the Board of Equalization on the 13th.

Received telegram from Attorney Stott at Portland that 1925 tax can be collected by levy against fixtures and other personal prop-

erty in the possession of the Pilcher Company on March 1, 1925, and suggesting that we give him further information concerning ownership of store previously operated by the Crescent Dry Goods Company.

Prepared and sent letter to R. T. Cookingham, Sheriff of Umatilla County, Oregon, enclosing check for \$523.32 to cover taxes for 1925 on Pendleton store; asking for information as to the Crescent Dry Goods Company; its present location and the names and addresses of its members.

Conferred several times during day with Mr. Lieurance.

Sept. 3.

Left for Los Angeles for purpose of conferring with Attorneys Lowenthal, Collins & Lowenthal representing the Weber Showcase & Fixture Company relative to a possible adjustment of their client's claim.

Sept. 4.

At Los Angeles, California, re Weber Showcase & Fixture Company claim; called upon and had long conference with Attorney Victor Ford Collins of the said firm and made proposition with a view toward and adjustment.

Sept. 5.

At Los Angeles. Awaiting further conference with Attorney Collins re Weber Showcase & Fixture Company claim, to take place on following day. [451]

Sept 6.

At Los Angeles, California, conferring with Attorney Collins in an effort to bring about an adjustment of the claim of Weber Showcase & Fixture Company against fixtures in various stores of Pilcher Company.

Received letter at office dated September 3rd from Attorney Plowden Stott, acknowledging my wire of the 2nd from Los Angeles and advising me concerning law in Oregon relative to the procedure in connection with petitions for tax reduction.

Sept. 7.

Conference lasting four hours with Mr. Lieurance.

Sept. 8.

Received letter dated September 7th from Sheriff of Umatilla County, Oregon, enclosing tax receipts and informing me that the head of Crescent Dry Goods Company is Charles Bond of Bond Bros., Pendleton, Oregon.

Several conferences with Mr. Lieurance during the day.

Sept. 10.

Letter sent to Clerk of U. S. District Court at San Francisco, enclosing four copies of Order continuing Receivers to be certified and returned.

Two letters received from Lowenthal, Collins & Lowenthal, attorneys at Los Angeles, relative to the claim of the Weber Showcase & Fixture Company; setting forth various

charges and credits in the matter; expressing views as to the status of the claim and offering a five per cent reduction as a settlement basis.

Several conferences with Mr. Lieurance during the day.

Sept 11.

Letter received from Globe Indemnity Company relative to bonds of Receivers. [452]

Sept. 13.

At Court in San Francisco re Order to Show Cause directed against Sheriff Reicks of San Joaquin County. Matter was further continued.

Several conferences with Mr. Lieurance during day.

Sept. 14.

Prepared and sent wire to Attorney Stott at Portland, stating that we are sending check to cover 1926 taxes but that payment is made under protest; also asking Mr. Stott to file petition for tax reduction.

Received and examined telegram from Tax Collector at Klamath Falls, Oregon, suggesting that he will attach Pilcher Company store at Klamath Falls if payment of current taxes is not made by tomorrow.

Prepared and sent to Attorney Stott telegram advising him of this threat and asking him to arrange for extension of time so that we can take the matter up with the Board of Equalization.

Sent letter to Plowden Sott, stating that we have information obtained through Mr. Pilcher that there was an understanding between him and Charles Bond, of Bond Bros., Pendleton, that the 1925 taxes on the Pendleton store were to be divided as follows: one third thereof to be paid by the Pilcher Company and two-thirds thereof by Crescent Dry Goods Company; also suggesting that we are entitled to reimbursement and that I am writing to Mr. Bond today; also confirming wire sent today concerning taxes against Klamath Falls store.

Letter received from Attorneys Dinkelspiel & Dinkelspiel of San Francisco, relative to authorities to be submitted by them to me as to alleged priority of claim of their client, Gildea & Co.

Several conferences with Mr. Lieurance, consuming over four hours.

Sept. 15.

Wrote letter to Seattle Daily Journal of Commerce, enclosing notice to be published and request for 90 proof slips.

Wrote letter to Spokane Daily Chronicle enclosing notice to be published and asking for 10 proof slips. [453]

Wrote letter to Oakland Tribune enclosing notice to be published at once, and request for 100 proof slips.

Wrote letter to San Francisco Examiner, en-

closing notice to be published at once, and to continue until October 1st.

Wrote letter to Attorney Joseph Kirk of San Francisco Board of Trade, suggesting that the Order to Show Cause against the Sheriff of San Joaquin County had been continued from time to time and that it would be on the calendar *against* on Monday, September 20th; suggesting also that I understood that yesterday Mr. Lieurance was in conference with him and Mr. Moore and that it was agreed among these gentlemen that all of the stores should be sold; and suggesting further that notices be prepared notifying the public that the stores would be sold by the Receivers here on the Pacific Coast, suggesting further that I had prepared such notices and that I am handing copies thereof to him for his approval and suggesting that I would welcome any suggestions that he might have to make in the premises.

Prepared notices of sale of stores for publication in newspapers in all Western jurisdictions.

Received telegram from Mr. Stott in reply to my wire, stating that he has prepared petition for reduction of Klamath Falls taxes and asking for information concerning the values of stocks and fixtures at the Pendleton store.

Letter sent to Attorney Stott re notice to creditors to be published in the Portland Orego-

nian; the notice to be published daily until October 1st; also asking for 100 proof slips of publication.

Had several conferences during the day with Mr. Lieurance.

Sept. 17.

Prepared and sent letter to Mr. A. V. Love of Seattle, re receipt of his claim for the necessary expenses incurred by him in his recent trip to New York on behalf of the Receivers, and suggesting that the claim would receive favorable action; among other things stating that he had taken up this matter with Attorney Walter E. Ernst of New York of the firm of McManus, Ernst & Ernst, representing the Receivers in the New York jurisdiction, and that he too had suggested that his (Mr. Love's) claim should be paid in full.
[454]

Sent letter to Attorney Stott re taxes levied in Umatilla County; also re letter received from W. A. Weist, Deputy District Attorney, stating that it is necessary to take some action concerning taxes amounting to \$677.97 levied against the Klamath Falls store; also suggesting that I communicate with Mr. Weist.

Sent letter to Attorney Stott re trip of Mr. Hershey, Auditor for the Receivers, to Portland in the interests of the administration.

Several conferences with Mr. Lieurance during the day.

Sept. 20.

At Court in San Francisco in the matter of the Order to Show Cause against Sheriff Reicks of San Joaquin County, California. Matter continued.

Conferred all afternoon with Mr. Lieurance relative to divers and sundry matters connected with administration.

Sept. 21.

Had several conferences with Mr. Lieurance during day.

Sept. 22.

Prepared and sent letter to Attorney Charles A. Hardy of Eugene, Oregon, in response to his letter addressed to Mr. Lieurance under dates July 7 and August 30, concerning claim of Stein Bros. vs. Pilcher Company, and also claim of Mr. Laraway and statement that Mr. Laraway had threatened to file a lien against the Eugene store property. I suggested that the action on the lien be deferred until we again hear from Mr. Gotthold as to his views concerning the sale of all the stores, and suggested in the event of the sale of the Eugene store, the purchaser might be interested in the lease and in taking care of the obligation.

Letter sent to Attorney W. J. Brown of Modesto, concerning scope of equity proceeding, and attempting to explain the bankruptcy proceeding, and giving him my views concerning the right of the Receivers under

the Order of appointment to all moneys under attachment. [455]

Telegram sent to Attorney Lowenthal, Collins & Lowenthal, at Los Angeles, stating that the Receivers were offering all the properties of the Pilcher Company for sale but that the sales will be made subject to their leasehold rights in the fixtures in some of the stores; that no attempt would be made to sell any of the fixtures under lease contract and stating further that the Receivers would be willing to settle with their client, Weber Showcase & Fixture Company, on a basis of 50% of the claim.

Telegram received from Lowenthal, Collins & Lowenthal stating that Weber Showcase & Fixture Company had heard report that Receivers are attempting to sell stores of the Pilcher Company and asking for full particulars.

Letter sent to Attorneys Dinkelspiel & Dinkelspiel in reply to their letter of the 14th, asking for their authorities re Gildea claim.

Letter sent to Attorneys Lowenthal, Collins & Lowenthal suggesting that Receivers are not willing to accept discount of only five per cent and that any further attempt to settle on a basis of less than 50% would be without avail.

Sept. 23.

Several conferences with Mr. Lieurance during day.

Sept. 24.

Letter dated September 20th received from Attorney Plowden Stott re taxes in Umatilla County and Klamath Falls and relating to the petitions for filing with the Boards of Equalization in these two counties.

Letter from Attorneys Dinkelspiel & Dinkelspiel enclosing their memoranda of authorities in opposition to our Order to Show Cause directed against Sheriff Reicks of San Joaquin County.

Re-examined facts in Gildea claim and examined authorities submitted by Dinkelspiel & Dinkelspiel.

Conferred with Mr. Lieurance several times during day. [456]

Sept. 25.

Letter dated September 22nd received from Attorney Stott re Pendleton and Klamath Falls stores and assessments, and petitions for correction of assessments.

Conferred with Mr. Lieurance a number of times during the day.

Sept. 27.

Letter dated September 24th received from Attorney Stott re filing of petitions for correction of assessment at Klamath Falls and Pendleton stores, and re visit of Auditor Phillip A. Hershey.

Letter dated September 25th from Attorney Stott re claim of Stein Bros., asking that we

get in touch with New York Receiver and obtain his views in an effort to present lien foreclosing proceedings.

Letter sent to Mrs. Kathryn Young re mimeographing copies of report which I assisted Mr. Lieurance in preparing.

Letter dated September 22nd from Attorney Harold D. Straus of New York, relative to claim of Philip Jones Corp., asking for information concerning Receivership.

Letter sent to Attorney Harold D. Straus in reply to his of the 22nd.

Conferred with Mr. Lieurance several times during the day and examined further claims of creditors.

Sept. 28.

Sent letter to McManus, Ernst & Ernst relative to letter addressed to Mr. Lieurance under date September 25th, and acknowledged receipt of copies of Order to Show Cause signed by Judge Hand on September 21st, and suggested that under authority of the Courts here in the West, proceedings would be taken to sell all of the stores of the Company; that we would give ample notice of the proposed sales and that Mr. Lieurance is sending full detailed information to everybody interested in the matter of the purchases of the stores.

Received letter from Lowenthal, Collins & Lowenthal stating that they would again take up

with their client the proposition to settle on a basis of 50%. [457]

Sept. 30.

Sent telegram to Attorneys Lowenthal, Collins & Lowenthal of Los Angeles, suggesting that we are sorry their clients refuse proposition; suggesting further that many bids have been received on the stores; that prospective purchasers have been told about the condition of the ownership of the fixtures in which the Weber Showcase & Fixture Company have an interest, and to which they hold title, and that where separate bids were received on fixtures, that they will be submitted to them.

Met several bidders in Mr. Lieurance's office and conferred with Mr. Lieurance during greater part of the day concerning bids and sales.

Oct. 1.

Telegram received from Attorney Victor Ford Collins of Los Angeles, suggesting that his people (referring to Weber Showcase & Fixture Company) cannot afford a loss of 50%; asking for information as to the persons already bidding on the stores; suggesting that they would be willing to take under consideration any bids on their fixtures but that they will not accept anything such as the Receivers have offered.

Conferred with two attorneys representing bidders and conferred with Mr. Lieurance a number of times during the day.

Oct. 2.

Letter prepared and sent to Attorney J. Benjamin Hall of Eugene, Oregon, re claim of Applegate Furniture Company, giving my opinion that claim cannot be allowed as a preferred claim; going into details and giving reasons therefor; and stating that I have to advise Mr. Lieurance, the Receiver, to reject the claim as a preferred one and to allow it as a general claim.

Letter sent to Attorney Plowden Stott acknowledging receipt of his letter of September 24th, and stating that we have advertised stores of Pilcher Company for sale and that the bids already received indicate that we will receive, subject to the approval of the Court, something in excess of \$200,000, for what remains of the store stocks; also stating our plan with respect to the obtaining of the approval of the Courts; also mentioning the attempt being made at New York to dispose of all of the stores there by sale in bulk for what the attorneys designate an "upset price." [458]

Letter sent to Attorney Charles A. Hardy of Eugene, Oregon, acknowledging receipt of his letter of September 25th and stating that as soon as we have completed the sales which are now pending, we will take up with the Court the matter of the claim of Stein Bros.

Letter sent to Attorneys Dinkelspiel & Dinkelspiel in reply to theirs of September 24th,

suggesting that I would give my comments within a few days on the authorities presented by them on the Order to Show Cause matter.

Letter sent to Attorney Strauss of New York re claim of Philip Jones Corp.

Went over with Mr. Lieurance the various bids received and consulted and advised with him concerning the bids (fifteen in number) already received.

Had a number of conferences with bidders and their attorneys and with Mr. Lieurance during day.

Oct. 3. (Sunday)

Worked greater part of the day on the preparation of Report and Return of Sales for use in the States of Oregon, Washington and California.

Oct. 4.

Letter dated October 2nd received from Attorney Stott re bill of Journal Publishing Company for publication of notice to bidders published thirteen times from September 17, to September 30, inclusive; also stating that he had not yet received affidavit from publications; also relative to cash advances made by him.

Continued work on preparation of Reports and Returns of Sales.

Oct. 5.

Letter received from Samuel Weinstein, sug-

gesting that it is of great importance that Mr. Pilcher communicate with him at once, and asking me to help him, if possible, to get in touch with Mr. Pilcher. [459]

Letter received from Dinkelspiel & Dinkelspiel, Esqs., in reply to my letter of the 2nd inst., in which I acknowledged receipt of their memoranda of authorities; also reminding me that the Order to Show Cause will be on the calendar next Monday, October 11th.

Worked on Returns of Sales of California stores and drafts of proposed Order of confirmation and drafts of Bills of Sales.

Had several conferences with Mr. Lieurance during day.

Oct. 6.

Letter sent to Attorney Stott in reply to his of October 2nd, stating that we are preparing Returns of Sales in the various jurisdictions; asking for affidavit of publication of notice from Journal Publishing Company, and stating that I will ask Mr. Hershey, the Auditor, to forward check to him to cover costs advanced.

Letter received from Attorney Joseph Kirk of San Francisco Board of Trade, fixing Friday morning for a meeting of the Committee of creditors and asking that Mr. Lieurance and I be present.

Prepared draft of proposed Order fixing time of hearing in the matter of the application

for confirmation of sales of California stores.
Finished preparation of Report and Returns of Sales of California stores and obtained the signature of Mr. Lieurance thereto.
Had conference with Mr. Lieurance lasting over four hours.

Oct. 7.

Letter sent to Attorneys Dinkelspiel & Dinkelspiel re Order to Show Cause on calendar next Monday, and suggesting that the matter would have to go over two weeks because I would have to be in the U. S. District Court at Portland, on the 11th, Monday next.

Went to San Francisco and filed in the office of the Clerk of the U. S. District Court the Report of the Receivers of the sale of the California stores subject to the confirmation by the Court, and the Receivers' [460] petition for the confirmation of the sales mentioned therein, and presented the Return and petition, together with draft of Order to Show Cause fixing time for the hearing, to Judge St. Sure.

Obtained the Order fixing Monday, October 25th, at ten o'clock A. M., as the time for the hearing of the application for confirmation.
Had several conferences with Mr. Lieurance during day.

Oct. 8.

Letter received dated October 26th from Attorney Stott replying to my letter of the 2nd,

and enclosing affidavit of publication of the Oregon Daily Journal.

Examined affidavit and sent it to Clerk of Court at Portland for filing.

Went to San Francisco and attended meeting at San Francisco Board of Trade in forenoon, and discussed with Mr. Lieurance, Mr. Walton N. Moore and Mr. Kirk, attorney for Board of Trade, the matter of the attempt at New York to sell all of the stores in bulk and to have all of the bids received here considered there instead of in these Western jurisdictions where the stores are located, and where there is likelihood of more competitive bidding. It was generally agreed that it would be to the interests of the creditors to have all bids received here considered by the Courts in these Western jurisdictions where, upon the hearing for confirmation, there is a likelihood of further bids being received in open court. It was also agreed that wires should be sent immediately to New York giving our views. The telegram was prepared in Mr. Kirk's office, each of us making suggestions concerning its form and contents.

Letter dated August 4th received from Attorney Walter E. Ernst of New York, acknowledging my letter of the 28th ult., with enclosures and discussing at length his views concerning sales of stores and urging that no

sales take place except in the New York jurisdiction.

Had long conference with Mr. Lieurance in the afternoon.

Oct. 9.

Letter sent to Attorney Joseph Kirk, of San Francisco Board of Trade, acknowledging receipt of his letter of [461] October 8th and thanking him for enclosures; also sent him copy of telegram and letter this day sent to McManus, Ernst & Ernst at New York.

Sent three-page closely typewritten letter to Attorneys McManus, Ernst & Ernst replying to theirs of October 4th, stating that bids on separate stores and on small groups now aggregate \$230,000; that the highest bids will be returned to the Courts for confirmation here and that we have assurance that at the time fixed for the hearings on the applications for confirmation, there will be considerable competitive bidding; suggesting that our plan is to have dates fixed after the time of hearing in New York; and discussing at length the advisability of following our plan; suggesting also that the Receiver, Mr. Lieurance, and I met in San Francisco on October 8th with Mr. Kirk, attorney for Board of Trade, and with Mr. Walton N. Moore, one of the creditors there, and that we were in accord; that our views were that the bids here should be finally con-

sidered in the various jurisdictions where the properties are located; and citing case of Reynolds vs. Stockton, 140 U. S. 254; and also discussing at length the law in the premises.

Letter received from Attorney Kirk enclosing copy of previous letter sent to McManus, Ernst & Ernst, and also the final form of telegram to these attorneys sent by Mr. Moore and Mr. Kirk.

Consulted and advised with Mr. Lieurance during day and left for Portland, Oregon, on evening train.

Oct. 10.

En route to Portland.

Oct. 11.

In Portland.

Went to office of Clerk of U. S. District Court and filed Return of Sale of stores in Oregon, and then went to see Judge Bean and obtained from him Order to Show Cause fixing time for the hearing of the application for confirmation of sales and designating October 27th as the time for such hearing.

Letter received at my office from Attorney Charles A. Hardy of Eugene, Oregon, relative to claim of Stein [462] Bros. and proposed cancellation of lease on Eugene store in the event lien be filed.

Letter sent from my office to Attorney Hardy acknowledging receipt of his letter.

Wire received from my office addressed to me at Portland sending copy of four-page telegram received to-day from McManus, Ernst & Ernst, asking for details of all bids and arguing that sale of stores should be made at New York in bulk and stating that large sum could be obtained there could be realized by sales in the western jurisdictions, and suggesting that at a meeting held next Monday, the New York Creditors' Committee would undoubtedly concur in their views as to this procedure.

Sent telegram from Portland to my Secretary concerning signing of Order fixing time of hearing and stating that Wednesday, October 27, was the time designated, and suggesting certain changes in draft of Order already prepared at my office.

Oct. 12.

Had prepared at my office affidavit of mailing notices to creditors and to all persons interested in the time fixed for the hearing of the application for confirmation of sales.

At Seattle, Washington, Judge Neterer was out of the City and we found that Judge Edward E. Cushman was holding Court at Tacoma, and Mr. Lieurance and I went to Tacoma and presented the Report of Sales to him and obtained from him an Order fixing time for the hearing of the application for confirmation. The time fixed was October 28 at the hour of 8 o'clock P. M. at Seattle. He ordered that

the notices be given by publication in the Daily Journal of Commerce at Seattle, Everett Herald at Everett, and Tacoma Daily Index at Tacoma, and Aberdeen Daily World at Aberdeen, Washington. We returned to Seattle and filed the papers with the Clerk of the U. S. District Court there.

Prepared notices of the time fixed for the hearing; took one copy thereof to the office of the Seattle Daily Journal of Commerce for publication and sent other copies for publication to the various newspapers designated in Judge Cushman's Order. [463]

Oct. 13.

Sent telegram from Seattle to my Secretary, suggesting that as Judge Neterer was out of the City, we obtained from Judge Edward E. Cushman at Tacoma Order to Show Cause, fixing time for hearing and designating kind of notice to be given and suggesting I am mailing copy of Order and that no affidavit of mailing be forwarded by her until I had any opportunity to scrutinize affidavits.

Letter sent from my office to Clerk of U. S. District Court at San Francisco, enclosing Affidavit of Mailing for filing.

Later in day en route to Spokane.

Oct. 14.

At Spokane all day.

Presented to Judge Webster report of sales of stores in Eastern Washington jurisdiction

of Washington, with application for confirmation and obtained Order fixing time for hearing and arranged with Spokane Daily Chronicle for publication of notice of hearing.

Received telegram at Spokane from my Secretary, suggesting wire this day received from Attorneys McManus, Ernst & Ernst of New York, stating prospective bidders in Court at New York but that no bids were received because they could not be assured that any sale made there would give title, and stating that hearing in New York may be considered as closed.

Telegram sent to Daily Journal of Commerce at Seattle, requesting them to mail at once to my office 200 proof slips of copy of Order to Show Cause.

Oct. 15.

At Seattle.

Went to office of Daily Journal of Commerce; called at office of Mr. A. V. Love and conferred with several attorneys representing bidders and prospective bidders.

Left Seattle in evening.

Letter received at my office from Attorney Stott dated October 13, enclosing copy of letter received by him from Attorneys Day, Hampson & Nelson and copy of reply relative to proposed controversy over bids. [464]

Oct. 16.

En route from Seattle to Oakland.

Letter received at my office from J. C. Brill Stores of Portland, dated October 14th re bid on stores and request for assignment of leases on stores at Klamath Falls, Roseburg and Albany, Oregon; stating also that it is not the plan of this Company to operate stores at Portland and Eugene if they are successful bidders; asking also that copies of leases be sent to them.

Oct. 17.

En route from Seattle to Oakland.

Oct. 18.

Back from Seattle.

Letter received from Attorney Plowden Stott dated October 15th re another letter received from Attorneys Day, Hampson & Nelson concerning the bid of two men named Karo & Weiner, and enclosing copy together with copy of reply; all of which I examined.

Letter from Sylverstrype Co. of New York received, asking for information as to dividends and as to the sales of the stores, etc.

Oct. 19.

Letter sent to Clerk of Court at Spokane, enclosing Affidavit of Mailing to be filed.

Received letter from Everett Daily Herald of Everett, Washington, stating that affidavit of publication was ready at that office and stating that charge was \$17.28.

Letter sent to Clerk of Court at Seattle, enclosing Affidavit of Mailing to be filed.

Conferred several times during day with Mr. Lieurance.

Oct. 20.

Letter sent to Attorney Stott acknowledging his favor of the 13th and copy of letter from Day, Hampson & [465] Nelson, Esqs.; also stating that I will write directly to these attorneys telling them that I have advised Mr. Lieurance to return to their clients, Karo & Weiner, the amount of their deposit.

Letter sent to Attorney Day, Hampson & Nelson informing them that I have this day advised the Receiver to refund the deposit of Karo & Weiner on account of bid on Pilcher Company store at Klamath Falls.

Letter sent to Attorney Charles A. Hardy in reply to letter of 8th, stating that as soon as we get the sale matters out of the way, we will take up and consider the claim of his client, Stein Bros.

Letter sent to Everett Daily Herald at Everett, Washington, acknowledging information that Notice was received; advising that check would be mailed for \$17.28 and requested Affidavit of Publication.

Letter sent to Joseph Kirk, Esq., sending copy of telegram received from Attorneys McManus, Ernst & Ernst concerning the proceedings which took place there on October 14th, and sending him also copy of letter sent to Mr. Lieurance by McManus, Ernst & Ernst

concerning the same; sending also copy of a previous telegram received by me from McManus, Ernst & Ernst concerning the plan in the east to make sale of stores in bulk; stating that in reply to that telegram I sent a long telegraphic letter to them from Seattle giving them explicitly our views; stating also that the highest bids received on the California stores were from A. B. Cohn on the Stockton store, \$14,250.; J. F. Holmes, the Turlock store, \$14,500.; H. L. Bonderant, the Oroville store, \$10,025.07; that these bids had been returned to the Court at San Francisco and that the hearing on the application for confirmation would take place on Monday, October 25th; also stating that our information is that there will be a number of bidders in Court at that time who will very likely raise the present bids.

Conferred with Mr. Lieurance several times during day.

Oct. 21.

Letter received from Attorney Hardy of Eugene, asking for reply to previous letters and expressing concern of his client because of reported sale of Eugene store to Stein Bros.; letter also goes into detail in the matter of the claim of Stein Bros.; it is claimed that they built a large number of tables for the Eugene store, furnishing both materials and labor; commenting also upon the rights

of Mr. Laraway, the Lessor of the building, and threatening to take steps to protect themselves. [466]

Letter dated October 14th received from Walter E. Ernst confirming telegram sent to Mr. Lieurance October 14th, and complaining because no bids were received in Court at New York.

Letter received from Lowenthal, Collins & Lowenthal of Los Angeles, dated October 20th, requesting a full report in regard to the whole situation.

Letter sent to Attorneys Lowenthal, Collins & Lowenthal, giving full information regarding the sales subject to claim of Weber Showcase & Fixture Company, and giving time of hearings and other information which we thought they might desire.

Oct. 22.

Letter received from Attorney W. Coburn Cook of Turlock, California, suggesting that he understands that on Monday, October 25th, the matter of the sale of the stocks of merchandise at Turlock will come on for hearing, and suggesting also that he wants to impress on me that M. M. Berg, the owner of the premises occupied by the Pilcher Store at Turlock, intends to look to Mr. Lieurance for payment of the rent under the lease; that the Receiver, by continuing to pay the rent after his appointment, has bound himself to the

obligations of the lease, and that Mr. Berg does not intend to release the Receiver upon any sale of the store.

Letter received from Attorney Joseph Kirk thanking me for my letter of the 20th, and stating that he has sent a copy thereof to Mr. Walton N. Moore; asking also for copies of telegrams sent by me or Receiver Lieurance from Seattle to McManus, Ernst & Ernst at New York City; stating further that he expects to be in Court on Monday, October 25, on the hearing for the confirmation of sales; and also stating "everything seems to be in excellent shape and I think Mr. Lieurance and yourself should be congratulated on the manner in which the case has been handled to date."

Prepared for use on Monday in U. S. District Court San Francisco, conveyances to be executed in favor of successful bidders.

Examined petition filed by Albert D. Applegate of Oregon.

Examined law concerning necessity for confirming sales reported and concerning rights of bidders appearing in open Court to increase bids. [467]

Conferred with Mr. Lieurance and advised with him several times during day.

Oct. 23.

Letter sent to Judge Cushman at Tacoma, reminding him of hearing on October 28th.

Letter sent to Attorney W. Coburn Cook of Turlock, California, acknowledging receipt of his letter of October 22nd and stating that I should be pleased to take up with him the matter spoken of in that communication shortly after my return from the Northwest.

Prepared draft of proposed Order confirming sales of California stores to be used in U. S. District Court at San Francisco on the 25th.

Prepared Petitions on behalf of Mr. Lieurance to be used in all ancillary jurisdictions, applying for orders of the various Courts permitting the Receivers to send Auditor Philip A. Hershey to New York for the purpose of checking claims, and bringing back, if possible, either the original books of the corporation or copies thereof.

Prepared drafts of proposed orders to be used in the various jurisdictions, authorizing and permitting the Receivers to send Mr. Hershey to New York.

Oct. 25.

Letter received from Attorney Plowden Stott dated October 22nd, informing me that he has received from the Clerk of Umatilla County a notification that the Board of Equalization considered the petition of the Receivers and had decided that the value placed upon the property of the Pilcher Company by the Assessor was not excessive, and that the assessment should stand.

Letter received from Attorney Stott, dated October 22nd, stating that he had received from Attorney E. C. Heffron of Eugene, Oregon, a copy of petition for an Order requiring receivers to pay to Applegate Furniture Company their claim in full as a preferred claim; also that he had advised Attorney Heffron that he would be glad to later advise him when the matter would be argued; and stating that I would be in Portland on the 27th. [468]

Telegram sent to Aberdeen Daily World, Aberdeen, Washington, asking for Affidavit of Publication of Notice of Sale, and urging that it be sent to me at Hotel Washington, Seattle, immediately.

At San Francisco in U. S. District Court in matter of application of Receivers for an Order confirming sales of California stores to A. B. Cohn, J. F. Holmes and H. L. Bonderant, as they were the highest bidders in open Court to date. The Court confirmed the sales of the three stores to A. L. May for \$41,000.

Prepared new Order confirming sale.

Prepared instrument of conveyance to A. L. May and consummated deal at the office of his attorney in First Nat'l Bank Building, San Francisco, and received the balance of the purchase price.

In the event started for Portland.

Oct. 26.

En route to Portland on business of Pilcher Company concerning confirmation of sales.

Oct. 27.

At Portland in the U. S. District Court.

Notices were filed and because of lack of time the matter of the confirmation was continued until the following morning.

Conferred with several attorneys during day and took train in evening for Seattle.

Letter sent from my office to me, forwarding Affidavit of Publication of Daily Journal of Commerce at Seattle; and informing me that no taxes were due in California.

Oct. 28.

Continued hearing on petition for confirmation at Portland took place; Plowden Stott, my local counsel, acting for me. The matter was only *partiall* heard and was then continued by Judge Bean until Monday, November 1st.

At Court at Seattle, in matter of confirmation of sales; [469] partial hearing took place at 8 P. M. before Judge Edward E. Cushman and because of contests matter was continued to November 3rd at 2 P. M. when it was stated Judge Neterer would be on hand and would hear the matter.

Oct. 29.

At Seattle, leaving for Spokane.

Oct. 30.

At Spokane.

Attend Court on hearing of application for confirmation of sale. There was a bid higher than the bid of Harrison's Inc. The matter of the right of Harrison's to an order confirming sale was argued and after argument the attorney representing Harrison's Inc. raised the bid to a sum higher than the other bid and the sale of the store upon which the bid of Harrison's Inc. had been made was then confirmed; and the sale of the store at Yakima was confirmed to Phillip A. Ditter.

Received telegram from my office at Oakland, stating that W. H. A. Remmer, attorney for Lessor of Klamath store property, served notice on the 29th to vacate store on the 31st and suggesting that Manager at Klamath Falls had been advised to take no action except to ask the Sheriff to restrain Lessor from interfering with the premises, and advising Manager MacDonald to communicate with me at Portland Hotel, Portland, Oregon.

Oct. 31.

At Portland, Oregon.

Met attorneys and prepared for hearing in Judge Bean's Court following morning.

[470]

Nov. 1.

At Portland In U. S. District Court in the matter of contested sales and particularly the contest offered by J. C. Brill stores. There

was considerable argument concerning the law of the case and the right of the J. C. Brill Stores to have their bid confirmed. Higher bids were received, and after considerable discussion the matter was continued until the following morning. In the meantime, meetings were held with certain attorneys representing bidders, and an arrangement was made whereby those desiring to increase their bids might do so at a meeting to be held that evening at the Portland store, at eight o'clock. The highest bidders were Tauhauser Hat Company in the sum of \$85,600. and Lieberman & Rosencrantz for \$12,000.

Letter sent from my office to Attorney Charles A. Hardy of Eugene, in reply to his letter of October 29th.

Sent telegram to my Secretary from Portland that I will report all sales directly to Lowenthal, Collins & Lowenthal, attorneys for Weber Showcase & Fixture Company, in reply to their request telegram received asking for full particulars of sales.

Telegram from my Secretary giving me contents of a wire received that day from Attorney Victor Ford Collins.

Prepared final supplemental report of Receivers, showing increased bids.

Assisted in preparation of Answer to petition of Applegate Furniture Company.

Nov. 2.

At Portland.

Attended Court in forenoon and filed Supplemental Report of Receivers and called to Courts attention the highest bids received, and obtained order confirming sales to Tanhauser Hat Co. and to Lieberman & Rosenkrantz.

Resisted motion of Attorney Weinstein on behalf of J. C. Brill Stores for an order allowing them the expenses that they had been put to in the matter of pressing bids and appearing in support thereof, which motion was denied.

Prepared Order confirming sales. [471]

Prepared instruments of conveyances conveying stores to successful bidders.

Spent several hours with attorneys representing Tanhauser Hat Company in consummating deal.

Left at night for Seattle.

Nov. 3.

At Seattle in Court on application for confirmation of sales previously reported. Higher bids were received than those reported previously and Judge Neterer confirmed sale of all stores in the Western Washington jurisdiction to J. S. Waugh of Aberdeen, Washington, for the sum of \$90,000.

Prepared new orders confirming sale; arranged through Sparkman & McLean Co. for bond

of \$80,000. which the Court required of the Receivers in the matter of the sale, which said bond we had approved and filed.

Prepared and delivered instruments of conveyance to J. S. Waugh and his attorney and obtained balance of sale price and consummated deal.

Received copy of Amended Bid of J. S. Waugh. Also served with and examined copy of objections to confirmation of sale of stores; original objection filed on behalf of Black Mfg. Co. and Johnson & Co. and Western Dry Goods Co. and Miller, Calhoun & Johnson Co., all creditors of R. A. Pilcher Co., Inc.

Also served with and examined petition to reject bids and to accept high bid made by Tanhauser Hat Co. of Portland.

Letter sent from my office to W. J. Brown, attorney at Modesto, California, notifying him of my absence and my attendance upon the Courts in the Northwest in the Pilcher matter; stating that California stores had been sold and the sales confirmed by the Court; also stating that his letter would be called to my attention upon my return to the office.

Nov. 4.

En route from Seattle to Oakland. [472]

Letter received at my office from Attorney Sidney Teiser of Portland, returning copy of letter I had previously loaned him.

Letter dated November 2nd received at my of-

fice from Attorney H. L. Chamberlain of Modesto, suggesting that I obtain and send to Sheriff of Stanislaus County a release of the Humphreys & Matthews attachment (so that the claim of his client could be considered as a first lien) and asking me when the matter of the sale of the Turlock store will come up for confirmation.

Nov. 5.

En route from Seattle to Oakland.

Nov. 6.

En route from Seattle to Oakland.

Letter dated November 3rd received at my office from James L. Baldwin & Co. of Chicago, asking about its claim and suggesting that they would like to have some information concerning the sales of stores and my opinion also as to necessity of filing proof of debt here as well as in New York.

Letter received from Attorney W. Coburn Cook, stating that his client, M. M. Berg, and he will call to see me next Wednesday, November 10th, concerning Mr. Berg's several claims.

Letter dated November 1st received from Sylverstrype Co. requesting information as to status of Receivership and likelihood of dividends, etc.

Letter to Sylverstrype Co. in reply to their letter of the 1st.

Nov. 8.

Letter sent to Attorney W. Coburn Cook of Turlock in reply to his letter of the 5th.

Telegram from Attorney Victor Ford Collins of Los Angeles, stating that he had wired me today but that he had not yet heard anything from me, and asking for status of things in general. [473]

Telegram to Attorney Collins representing Weber Showcase & Fixture Company, stating that I had just returned from the Northwest and that all of the stores had been sold and the sales confirmed subject to any interest of their client; that provisions were incorporated in the instruments of conveyance specially calling attention to the fact that the claim of interest of the Weber Showcase Company in certain fixtures, and stating that I will write him tomorrow and send him copies of Orders confirming sales and copies of Bills of Sale.

Had several conferences with Mr. Lieurance during day.

Nov. 9.

Letter to Lowenthal, Collins & Lowenthal of Los Angeles, confirming wire of yesterday and giving them status of affairs of Pilcher Company, informing them of all sales and enclosing carbon copies of Bills of Sale giving names and addresses of purchasers of various stores, and forwarding copies of Orders confirming sales.

Had long conference with Mr. Lieurance during afternoon.

Nov. 10.

Letter sent to Attorney Charles A. Hardy re Stein Bros. claim, notifying him that the stores sold had brought \$257,600. and suggesting that he file his client's claim with the Receiver and that he send to me a certified copy of the Notice of Lien already filed and also suggesting that we will give the matter prompt attention.

Letter sent to Attorney Joseph Kirk, attorney for the San Francisco Board of Trade, stating that we had made a strenuous trip through the Northwest and did not get back until Friday afternoon; that there were quite a few bidders who appeared in open Court and several continuances of hearings; giving him a resume of the sales as confirmed by the Courts, aggregating \$257,600.; suggesting also that by selling here in the Western jurisdictions instead at New York, we have probably saved the creditors the sum of \$57,600. (our information from New York had been that by the sale of the stores there in bulk, we could probably get \$200,000); that our insistence that the sales be made here was worth while because, as stated, we obtained so much more [474] than could have been gotten in the East; suggesting that Mr. Lieurance could not tell defi-

nately how much merchandise was on hand in the various jurisdictions at the time of sale, but that his estimate was about \$337,000. on October 20th; suggesting that Mr. Hershey, the Auditor for the Receivers, is leaving for New York tomorrow for the purpose of getting all data with which to check claims; that it is our intention to try to obtain the original books of the Pilcher Company; suggesting the advisability of paying all claims from here and that an application will be made soon for leave to pay a substantial dividend to the creditors; suggesting also that we are doing our best to dispose of our leasehold liabilities.

Long interview at my office with Attorney W. Coburn Cook of Turlock, and his client M. M. Berg, relative to claim of Mr. Berg and threatened action thereon.

Letter to McNoble & Arndt at Stockton, California, replying to their letter of October 28th relative to the so-called "Priority Claim" of Dave Matthews; also reporting sales of stores for \$257,600. and stating that as soon as we have checked up all claims, it is proposed to pay a dividend.

Letter sent to Charles Douglas Mack Co. stating that all of the stores had been sold and that the Receivers expect to pay a dividend soon.

Letter to Attorney Joe G. Sweet, replying to his request for information concerning the

sale of stores and enclosing a carbon of letter sent to Attorneys Lowenthal, Collins & Lowenthal of even date, regarding claim of Weber Showcase & Fixture Company.

Nov. 11.

Letter received from Attorneys Lowenthal, Collins & Lowenthal of Los Angeles, acknowledging receipt of telegram and expressing desire for full reports.

Conferred and advised with Mr. Lieurance several times during day.

Nov. 12.

Letter dated November 9th received from Wayne Knitting Mills of Chicago, reminding us that claim of theirs was filed under date September 28th covering amount of [475] their shipments made to Pilcher store at Pendleton, and asking for report and for information as to dividends.

Letter sent in reply to the above, giving full information.

Letter received from Attorneys Hadsell, Sweet & Ingalls dated November 11th, acknowledging receipt of my previous letter enclosing carbon copy of letter to Attorneys Lowenthal, Collins & Lowenthal.

Had long conference with Mr. Lieurance during afternoon.

Nov. 13.

Letter dated November 12th received from Attorney W. Coburn Cook of Turlock, stating

that the rent of the Turlock store for the month of November amounting to \$425. is unpaid, and that unless paid before November 28th, Mr. Berg will take possession of the leasehold premises for the account of the Pilcher Company and its Receivers and "will proceed to endeavor to obtain a tenant for the premises in order to mitigate damages."

Letter received from Attorney Kirk replying to my letter of the 10th, concerning assets in stores in California, Oregon and Washington; concerning filing of claims and suggesting that order should be obtained enlarging time of creditors within which to file claims.

Nov. 15.

Letter received from Attorneys Manning & Harvey of Portland, re claim of Kilgreen & Flynn, giving me particulars and stating that the claimants had done work on the Portland store to the extent of \$14,880.45 and that they had received only \$8778.08, and that they are entitled to a balance of \$6102.37; insisting that this claim be considered and paid as a preferred claim and that I, as attorney for the Receivers, should treat it as such.

Letter received from Attorneys Lowenthal, Collins & Lowenthal, dated November 13th, expressing thanks for my letter of November 9th.

Nov. 16.

Conferring with Mr. Lieurance greater part of day. [476]

Nov. 18.

Letter received from Lowenthal, Collins & Lowenthal, concerning matter of its client's claim.

Nov. 19.

Letter received from Attorney Theodore B. Breuner of Aberdeen re claim of C. A. Haynes, L. A. McCullough & Lamb & Horrocks; requesting information concerning distribution of funds on hand.

Letter received from Attorney Charles A. Hardy of Eugene, dated November 17th, enclosing verified claim of Stein Bros. and suggesting that we should allow this claim as a preferred one and that if we did so, they would waive the right of lien covering the property in which the Eugene store is located. The lien is for \$4786.65.

Consulted and advised with Mr. Lieurance during day.

Nov. 20.

Letter received from Attorneys Williams & Davis of Everett, Washington, requesting information re discharge of claim of Security National Bank.

Nov. 22.

Letter received from Attorney E. O. Immel of Eugene dated November 20th, relative to the claim of Sigwart Electric Company, insisting that the claim be taken care of as a preferred claim; that the claim is the subject of a lien which has been filed against the property on

which the Eugene store is located and threatening to foreclose the lien.

Letter sent to Attorney Collins stating that we have carefully considered all of the leasehold contracts of the Weber Showcase & Fixture Co. and that Mr. Lieurance would like to confer with somebody in authority with the Company with a view toward adjustment of the claim.

Made another scrutiny of the lease contracts of the Weber Company and the law appertaining to certain provisions thereof, spending the greater part of the day so doing.
[477]

Nov. 24.

Assisted in the preparation of letters to be sent to all of the creditors reporting in detail the sale of the stores for \$257,600., and stating that the Receiver will now have on hand approximately \$417,600; that the total amount of the Pilcher Company indebtedness has not yet been determined; that Mr. Phillip A. Hershey, Auditor for the Western Receiver, is now in New York working with Liedesdorf & Co., the New York Auditors, in an effort to audit the accounts and claims as quickly as possible and stating that as soon as the claims are checked and audited, it is proposed to make a partial distribution among the creditors of a substantial amount.

Letter from the San Francisco Board of Trade, stating that referring to conversation had

with me a few days ago concerning filing of claims, a form of stipulation is enclosed for the signature of Mr. Lieurance and myself, with proposed order of Court.

Letter from McNoble & Arndt of Stockton, making inquiry as to when dividend will be paid.

Nov. 26.

Telegram received from Attorney Plowden Stott, acknowledging receipt of our telegram and suggesting that in response to our request, the Portland Assn. of Credit Men sent a telegram to Judge Hand re proposed bankruptcy.

Had several conferences with Mr. Lieurance during day.

Letter sent to Attorney E. O. Immel of Eugene, Oregon, replying to his letter of the 20th re Sigwart Electric Company, and suggesting that Mr. Hershey, Auditor of Receivers, went to New York for the purpose of getting the original books of the Pilcher Company or a copy thereof, and that on his return we would check up the matter of claims.

Letter sent to McNoble & Arndt in reply to theirs of the 22nd, and giving full information.

Letter received from Attorneys Lowenthal, Collins & Lowenthal, suggesting that they will have a conference with the Weber Showcase people along the lines suggested in the letter received. [478]

Nov. 29. Letter received from Attorney Plowden Stott dated November 26th, stating that the matter of the petition of Albert D. Applegate of Eugene was set for hearing on January 10, 1927, but that it would have to go over until January 17th; asking for data with which to meet the issues; reminding me that he had promised Attorney Heffron that we would have the former Manager of the Pilcher Company store at Eugene present at Portland at the time of the hearing, with all correspondence and order blanks and other data and information; and enclosing copy of the Applegate petition, which I duly examined.

Letter from San Francisco Board of Trade stating that pursuant to telephonic conversation had with me yesterday, a night letter was sent to Judge Hand at New York and sending me a copy thereof.

Several conferences with Mr. Lieurance during day.

Nov. 30.

Received long letter from Attorney Plowden Stott, dated November 27th, re telegram sent by Portland Assn. of Credit Men to Judge Hand, and concerning bankruptcy.

Dec. 1.

Letter from Lowenthal, Collins & Lowenthal requesting outline of our plans respecting adjustment of case.

Dec. 2.

Telegram sent to Attorney Stott asking him to notify Portland Assn. of Credit Men that meeting of Creditors' Committee of Pilcher Company is to be held at New York Friday afternoon for purpose of discussing bankruptcy situation; suggesting that it is probably worth while for Credit Men's Assn. to wire Mr. Fraser, Chairman of New York Committee, protest against bankruptcy and supporting plan of handling and paying claims in equity proceeding; suggested also getting in touch with Attorney W. B. Layton representing the Association and lay the matter before him.

Assisted Mr. Lieurance in preparing telegram to be sent to Mr. A. V. Love of Seattle, suggesting that wire has just been received from Receiver Gotthold stating that [479] Creditors' Committee plans to hold meeting in New York on Friday afternoon relative to proposed bankruptcy proceedings, and suggesting that it might be worth while to wire his opposition to any plan contemplating bankruptcy; that it might also be well to have the Credit Men's Assn wire Chairman Fraser of the Committee; also suggesting that we are informed that Mr. Walton N. Moore can be reached at the Roosevelt Hotel at New York.

Conferred several times with Mr. Lieurance during day.

Dec. 3.

Letter dated December 1st received from Attorney Stott stating that Attorney Harvey, of Manning & Harvey, attorneys for the lien claimant, Kilgreen & Flynn, had notified him that he would file suit to foreclose lien against the property of the Portland store within the next few days.

Letter sent in reply to the foregoing.

Dec. 4.

Letter received from Attorney E. O. Immel of Eugene, Oregon, dated December 2nd, in reply to my note of November 27th, concerning claim of Sigwart Electric Co.; stating that he had filed a mechanic's lien against the property in which the Eugene store is located early in July, and that unless his client's claim be allowed as a preferred claim, he will be forced to bring suit to foreclose.

Letter dated November 30th received from Attorney B. Chandler Snead of New York, representing Diamond Match Company, asking when they may expect a dividend.

Conferred with Mr. Lieurance.

Dec. 6.

Letter dated December 4th received from Attorneys Simon, Gearin, Humphreys & Freedre claim of W. H. Ambler asking for information and prospects of payment. [480]

Scrutinized the so-called "Priority Claim" of Schuler-Ruhl Co. and examined law concerning same.

Examined law relating to procedure in the matter of the payment of proposed dividend and payment to Receivers and their attorneys on account of services rendered, and started preparation of further Report of Receivers.

Dec. 8.

Letter received from Edward B. Lung, Secretary of Wholesalers' Assn of Tacoma, dated December 6th, requesting information concerning various claims filed on behalf of members of this Association.

Letter sent in reply to above.

Spent rest of the day in the matter of the preparation of Report of Receivers and Petition for Order authorizing dividend of 40% and the payment of reasonable sums as allowances on account to the Receivers and their attorney.

Dec. 9.

Met with Attorney Joseph Kirk at San Francisco and had conference with him and Mr. Moore and Mr. Lieurance concerning application of New York attorneys and Receiver Gotthold for allowance to them on account.

Spent rest of day in preparation of further Report of Receivers and papers on proposed application for an Order authorizing payment of dividend of 40% to creditors, and granting reasonable allowances on ac-

count to the Receivers and to Edward R. Eliassen, their attorney.

Dec. 10.

Presented and filed further Report of Receivers and application for an Order permitting the payment of a dividend of 40% to creditors, and granting the Receivers and their attorneys allowances on account. The Order was granted, authorizing such dividend and allowing on account the following payments:

To Arthur F. Gotthold, 25% of \$10,000.

To A. F. Lieurance, 75% of \$10,000.

To Edward R. Eliassen, \$10,000. [481]

Sent telegram to Mrs. Susan R. Murray, Secretary to Judge J. Stanley Webster of Spokane, asking if the Judge would be in Spokane on Tuesday next and if it will be agreeable to him at that time to take up the application for Order authorizing payment of dividend and granting allowance to Receivers and their attorney.

Received telegram from Secretary of Judge Webster stating that he is willing to take up the matter on Tuesday, December 14th.

Spent rest of day working on further Reports and petition for use in the Northwest in the matter of payment of dividend and granting of allowances on account.

Dec. 11.

Letters sent to Attorney Charles A. Hardy, acknowledging receipt of claim of Stein Bros.,

stating that our Auditor is in New York and that on his return we will take up the matter of the adjustment of all claims.

Letter sent to Attorneys Simon, Gearin, Humphreys & Freed of Portland, re claim of W. H. Ambler, stating that the auditor is in New York, etc.

Letter sent to Attorney Stott of Portland, re claim of Albert D. Applegate and noting the fact that hearing in the U. S. District Court at Portland in the matter of this claim was continued until January 17th; stating also that we would like to have Mr. Maloney on hand at the time of trial.

Letter to Attorney E. O. Immel in reply to his of December 2nd, and stating that all of the claims are in New York, having been taken back by Mr. Hershey, the Auditor for the Receivers for the purpose of checking them with the original books of the Company; suggesting also that he had better save his client's rights and take whatever action he sees fit to take in the matter of the mechanic's lien.

Sent telegram to Mrs. Murray, Secretary to Judge Webster of Spokane, thanking her for her wire and stating that we will be in Spokane on Tuesday morning next.

Letter to Wholesaler's Association of Tacoma, stating that the Auditor of the Receivers is in New York for the purpose of checking all claims and that we expect him back with

the books of the Company and all claims within the next ten days; also that it is proposed to pay a dividend to creditors of 40% within a short time. [482]

Letter to Silverstrype Co. of New York informing it of sales of stores and prospects of early dividend.

Letters to Wayne Knitting Mills of Chicago re sale of stores and prospect of payment of early dividend of 40%.

Letter to Attorney B. Chandler Snead of New York, representing Diamond Match Company, replying to his letter of November 30th suggesting that orders are being obtained permitting payment of dividend of 40%.

Started for Portland in the evening.

Dec. 12.

En route to Portland.

Dec. 13.

At Portland.

Went to Court of Judge Bean and found that he was out of the City.

Had long conference with Attorney W. W. Banks of Portland concerning suit of Kilgreen & Flynn and suggesting that this compromise offer which Mr. Banks was authorized to submit to Attorney Manning, representing claimants.

Letter received at my office from Attorney Charles A. Hardy re claim of Stein Bros., asking suggestions as to the course we ex-

pect to follow in the matter of his client's claim.

Letter received at my office from Attorneys Chamberlain, Thomas & Kraemer of Portland, enclosing copy of Complaint served on the 10th on the Wiley Investment Company in the suit of Kilgreen & Flynn; asking what action if any they are to take in the matter because of the fact that we had procured a bond for the Receivers in said matter to protect said Lessors and Pilcher Co.

Left Portland for Spokane, Washington.

Dec. 14.

At Court in Spokane. [483]

Filed further Report and presented the same, together with proof thereon, in open Court to Judge Webster and an Order was granted after a full hearing, permitting payment of 40% dividend to creditors and making allowances on account as follows:

To the Receivers, \$5,000.

To their attorney, Edward R. Eliassen,
\$2,500.

Dec. 15.

At Court in Seattle.

Filed and presented in open Court matter of the further Report of Receivers and their application for an Order permitting payment of dividend of 40% to creditors, and granting allowances on account to the Receivers and their attorney as follows:

To Receiver A. F. Lieurance, \$12,000.

To Receiver Arthur F. Gotthold, \$1,000.

To Edward R. Eliassen, their attorney,
\$5,000.

Letter received at Seattle from Attorney Harry F. Rafferty of Portland relative to foreclosure suit of Kilgreen & Flynn.

Telephoned from Seattle to Portland, making appointment with Attorney Rafferty for tomorrow, the 16th.

Received, en route from Seattle to Portland, a telegram from Attorney Joseph Kirk of San Francisco re application for allowances.

Dec. 16.

At Court in Portland.

Filed further Report of Receivers and application for Order authorizing payment of 40% dividend to creditors and the payment of allowances on account to the Receivers and their attorney. Presented matter in open Court before Judge Robert S. Bean and the Court made its Order authorizing such dividend and granting allowances to the Receivers and their attorney as follows:

To Arthur F. Gotthold \$1,000.

A. F. Lieurance 13,587.51.

Edward R. Eliassen 10,000.

Called at the office of Attorney Harry L. Rafferty, Title and Trust Building, Portland. Went over file [484] of Globe Indemnity Company and discussed at some length the matter of the Kilgreen & Flynn suit. Then

borrowed file and took same to the Hotel where I carefully examined all papers and documents connected with the case; thereafter went back to Mr. Rafferty's office and returned his file.

Left Portland at night, en route to Oakland.

Dec. 17.

En route from Portland to Oakland.

Dec. 18.

En route from Portland to Oakland.

Letter sent from my office to Attorney Joseph Kirk of San Francisco, stating that I will be back shortly and the matters will then receive attention.

Letter received at my office from Attorney B. Chandler Snead re claim of Diamond Match Company.

Dec. 20.

Received letter dated December 18th from Attorney W. W. Banks of Portland, stating that he had received no definite answer from Attorney Manning respecting the offer of compromise relative to the Kilgreen & Flynn matter.

Went with Mr. Lieurance to office of Attorney Joseph Kirk and met with Mr. Walton N. Moore.

Had long conference with Mr. Lieurance after leaving office of Mr. Kirk.

Dec. 21.

Letter received from Attorney W. W. Banks

of Portland, replying to my local counsel Mr. Stott, stating that service was made on the 17th of certain motion papers in the matter of the claim of W. H. Ambler for \$1671.91; enclosing papers and asking for my suggestion in the premises. [485]

Examined motion papers mentioned; looked up law concerning such motion, and sent reply to Attorney Banks.

Conferred with Mr. Lieurance several times during day.

Dec. 24.

Received letter from Attorneys Lowenthal, Collins & Lowenthal, of Los Angeles, stating that in accordance with long distance telephone, they were waiting for letter outlining letter of Mr. Lieurance for adjustment.

Dec. 29.

Telegram received from Attorney Victor Ford Collins stating that he had not heard anything from Mr. Lieurance regarding proposition in the Weber Showcase matter; asking if it would be well to send someone to Oakland to confer.

Dec. 30.

Letter sent to Attorney W. W. Banks re claim of Kilgreen & Flynn and suggesting that we hoped he would be able to come to some understanding with Attorney Manning.

Another letter sent to Attorney Banks re Ambler claim and Motion for order; suggesting

that claim is not proper and that evidently this is the conclusion reached by the New York attorneys.

Letter to Attorney Victor Ford Collins acknowledging receipt of wire and giving general information relative to the situation with respect to claim of Weber Showcase & fixture Company, his client.

Conferred with Lieurance several times during day. [486]

1927.

Jan. 4.

Letter sent to Attorney Thomas G. Greene, Portland, stating that I have examined the claim of the Modish Cloak & Suit Manufacturing Company, and criticizing a portion of the claim suggesting that we try to get together with a view of compromised settlement.

Letter to Attorney Henry Dinkelspiel of San Francisco re claim of Ray A. Gildea asking for further information.

Letter sent to Verne C. McDowell, Albany, Ore. re letter of Mr. Lieurance dated Dec. 29th, 1926 suggesting that if he will prepare form of Transfer we will obtain necessary signatures.

Lengthy conference with Mr. Lieurance.

Jan. 5.

Telegram received from Attorney O. E. Immell of Eugene, Ore. requesting information concerning prospective dividend.

Letter dated Jan. 3rd, 1927 received from Attorney W. W. Banks of Portland, Oregon, re Kilgreene & Flynn suit replying to mine of the 30th ult.; also suggesting that Attorney Manning refused offer of 50% of claim; commenting also upon matters in general.

Jan. 6.

Telegram sent to Attorney O. E. Immell at Eugene, Ore. concerning probable amount of dividends.

Letter dated Jan. 3rd, 1927 received from Attorney W. W. Banks re claim of W. H. Ambler acknowledging my letter with which he returned the Motion papers; suggesting that he had got in touch with Attorney Humphreys, and had obtained consent that the matter may be held in abeyance until return of Mr. Stott.

Letter dated Jan. 5th, 1927 received from Dinkelspiel & Dinkelspiel Esqs. re claim of Ray A. Gildea in reply to my letter of the 4th.

Letter sent to Dinkelspiel & Dinkelspiel in reply.

Letter to Attorney J. C. Bohlinger, of Wenatchee, Wash. re claim of Engst Sign Shop stating that we had [487] treated the claim as a general one as his client appeared to be an independent contractor.

Conferred with Mr. Lieurance several times during the day.

Jan. 7.

Spent the greater part of the day on draft of proposed stipulations concerning allowances made to the Receivers and their attorneys.

Consulted and advised with Mr. Lieurance for over three hours.

Jan. 8.

Lengthy letter dated Jan. 6th, 1927, received from Attorney Thomas G. Greene of Portland, Oregon, in reply to my letter of the 4th relative to the claim of Modish Cloak & Suit Manufacturing Company giving numerous reasons why he thought claim should be allowed as preferred.

Letter sent in reply thereto.

Letter received from John F. Schingler of Los Angeles giving his reasons why his claim should be allowed as a preferred claim.

Worked on draft of proposed stipulations concerning reduction of allowance to Mr. Lieurance and to me.

Examined a number of claims with Mr. Hershey and gave my opinion thereon with instructions.

Letter received from Lowenthal, Collins & Lowenthal, of Los Angeles re. Webber Case & Fixture Co., reporting what they were doing in the matter of adjustments with buyers of the stores; requesting suggestions from us and asking for information concerning the treatment of the claim.

Letter received from Attorneys McNoble & Arndt of Stockton, Cal. relative to reduction of claim of Dave Matthews for \$500.00; stating that claim should be paid and that unless payments were made soon suit would be filed. Consulted with Mr. Lieurance and Mr. Hershey several [488] times during the day.

Jan. 10.

Letter sent to John F. Schingler of Los Angeles acknowledging his favor of Jan. 7th in the matter of his claim.

Letter sent to Attorneys McNoble & Arndt of Stockton re. Matthews vs. R. A. Pilcher Co. insisting that Mr. Matthews was employed by Receivers and inviting discussion of the matter.

Letter dated Jan. 7th, 1927, received addressed to Mr. Lieurance from Bank of Italy, at Stockton, stating in reply to previous letter that it is still holding under attachment \$250.00 levied upon in the case of Sherman & Wise.

Letter sent in reply thereto.

Letter received from Attorneys Dinkelspiel & Dinkelspiel of San Francisco re. Gildea claim and its satisfaction.

Letter sent to Attorneys Lowenthal, Collins & Lowenthal of Los Angeles acknowledging receipt of their letter of Jan. 6th; stating that Mr. Lieurance was awaiting for definite information as to the arrangements concerning

the fixtures, and that final disposition could not be made until more was known about the situation.

Worked with Mr. Lieurance on draft of proposed stipulations concerning allowance made to Mr. Lieurance and me.

Jan. 11.

Had three telephonic conversations with Attorney B. D. Townsend of San Francisco.

Consulted and advised with Mr. Lieurance for 2 hours. [489]

Jan. 12.

Letter dated Jan. 27th, 1927, received from The Silverstripe Company of New York commenting upon proposed dividend of 40%.

Letter sent in reply thereto suggesting that Books of the Receivers show payment of this dividend.

Letter received from Attorney Francis J. Heney dated Jan. 27th, 1927, asking if Mr. Lieurance would give an answer relative to stipulation.

Went to San Francisco and had an interview with Mr. Francis J. Heney at his office.

Letter received from Attorneys, McNoble & Arndt, re. the statement that David Matthews had been employed by Receiver and that his employment continued until Receiver Lieurance discharged him in December; stating that complaint has been prepared and would be filed in the Supreme Court of San Joa-

quin County of settlement was not obtained shortly.

Conferred with Mr. Lieurance and spent the entire day in the business of the Receivership.

Jan. 13.

Letter sent to Clerk of the United States District Court of Portland enclosing for filing in his office an Affidavit of Mailing Notices.

Letter received from Globe Indemnity Company re. premiums on bonds.

Letter received from Attorneys, McNoble & Arndt, relative to reduction of the claim of Eastman-Gibbons Company for bags and claiming non-responsibility of Humphreys and Matthews for the ordering thereof.

Had long conference with Mr. Hershey relative to claims which I inspected and passed.

Jan. 15.

Letter sent to Attorney Plowden Stott in reply to wire of yesterday concerning continuance of hearing in the Applegate matter stating also that we have allowed as a preferred claim the claim of Modish Cloak & Suit Manufacturing Company for \$878.45, [490] and that Attorney Thomas G. Greene representing claimant has spent the sum of \$32.25. Suit was brought upon this claim and attachment levied upon the Portland store prior to the appointment of the Receivers. A Surety Company bond was obtained for the release

of the attachment before the Receivership and it was suggested that in the affidavit the claim was allowed as a general claim. We would have to pay nevertheless any deficiency on the claim to the Surety Company which furnished the bond.

Letter to F. O. Nebeker notifying him that Judge A. F. St. Sure had appointed him Special Master in the Pilcher matter for the purpose of hearing the testimony on disputed claims and getting advices thereon; suggesting that there are a number of claims that will need adjustment by him, and that these matters will be referred to him shortly.

Letter sent to Attorneys McNoble & Arndt of Stockton re. claims of Eastman-Gibbons Co. and David Matthews suggesting that these claims should be referred to the Special Master, F. O. Nebeker, and giving them my opinion concerning the appointment of the Special Master.

Letter to John F. Schingler of Los Angeles stating that his claim should be passed upon by the Special Master.

Letter to Sheriff Wm. H. Reicks of Stockton asking for time of release of Gildea attachment and for settlement of any funds still in his possession.

Letter sent to Attorney Thomas G. Greene, Portland, Ore. stating that auditors had issued cheque payable to his client and that

the same was sent to attorney Plowden Stott with proper instructions.

Examined a great number of claims of creditors; conferred with Auditor Hershey relative thereto.

Had several conferences during the day with Mr. Lieurance.

Jan. 17.

Letter dated Jan. 15th, 1927, received from Attorney O. E. Immell of Eugene, Ore. re. claim of Sigwart Electric Co. giving his reasons why claims should be allowed in full as a preferred claim. [491]

Conversed with Attorney Francis J. Heney over the telephone.

Examined further claims of creditors, and conferred with Mr. Hershey, the auditor.

Had long conference with Mr. Lieurance.

Went to San Francisco and called at the office of Attorney, Francis J. Heney, and had a conference.

Had a long conference with Mr. Lieurance concerning various matters connected with the administration.

Jan. 19.

Letter from Attorney Plowden Stott of Portland dated Jan. 17th, 1927 relative to claim of Applegate stating that as Judge Bean was not sitting he had agreed with Attorney Heffron to a postponement of the hearing until February 7th; also confirming wire

sent last Friday and suggesting that he will get Attorney Heffron to specify definitely what letters and wires he wants us to produce in Court at the hearing.

Letter from Attorneys McNoble & Arndt dated Jan. 18th, 1927 giving it as their opinion that it would not be necessary to have the Eastman-Gibbons case heard before the Master as the facts could not be said to be in dispute; also threatening that suit would be filed in the Dave Matthews matter.

Went to San Francisco and again called at the office of Francis J. Heney.

Spent the entire day in the business of the administration.

Jan. 20.

Letter dated Jan. 17th, 1927, received from Attorney Plowden Stott re. Kilgreene & Flynn suit stating that he will make another effort through Attorney Manning to effect a compromise.

Letter dated Jan. 17th, 1927, received from Attorney Plowden Stott re. Ambler case sending me all papers in the matter of the Motion including Affidavit of Mr. Ambler; suggesting that I prepare suitable [492] Answer and return with all information available.

Letter dated Jan. 18th received from Robert F. Maguire, Master in Chancery, in Portland, Oregon, notifying me of his appointment as

Special Master in the Pilcher matter, and stating that he now has before him the matter of the claim of J. C. Brill Stores, and suggesting that he give a date for the hearing.

Sent reply thereto.

Letter received from Attorney Plowden Stott stating he had certain wires forwarded East protesting against Bankruptcy.

Examined all Motion papers in the matter of the audit of Show case proceeding instituted by W. H. Ambler of Portland. Re-examined the letter pertaining thereto; prepared Answer for Receiver Lieurance and returned all papers to Mr. Stott with instructions.

Worked on draft of proposed stipulations concerning allowances.

Had several conferences during the day with Mr. Lieurance.

Jan 21.

Consulted and advised with Mr. Lieurance for over 4 hours.

Worked on stipulation concerning allowances.

Jan. 22.

Spent all day in San Francisco, consulting with Attorney Francis J. Heney; examining the files in the Pilcher case in the office of the United States District Court, and consulted and advised with Mr. Lieurance.

Jan. 24.

Examined letter addressed to Mr. Lieurance

under date of Jan. 20th, by Roberts, Johnson & Rand of St. Louis re. compensation of Receivers and Attorneys. [493]

Consulted and advised with Mr. Lieurance concerning claims.

Examined a number of creditors claims and advised thereon.

Jan. 27.

Letter dated Jan. 25th received from Attorney Plowden Stott of Portland re Ambler claim enclosing copy of letter received from Attorneys Simon, Gearin, Humphreys & Freed, and requesting suggestions from me.

Letter in reply thereto sent to the Attorneys for Mr. Ambler.

Letter received from Attorney Plowden Stott dated Jan. 25th, relative to allowances on account of Attorneys fees.

Jan. 28.

Letter dated Jan. 25th received from Attorney Plowden Stott re. Modish Cloak & Suit Manufacturing Co. in reply to my letter of the 15th, stating that he has taken up the matter of the dismissal of the action with Attorney Thomas G. Greene; has obtained a stipulation of dismissal in the Circuit Court; obtained an order thereon; a certified copy which was delivered to the Royal Indemnity Co. that furnished the bond on attachment; also a receipt in full from claimant; also re-

turning all correspondence and files in the case.

Interview with Mr. Rosencrantz.

Several conferences with Mr. Lieurance during the day.

Jan. 29.

Letter dated Jan. 26th received from Attorney Plowden Stott re. Kilgreene & Flynn suit stating that time had been extended to February 24th; that he had a further conference with Attorney Manning representing the plaintiff; discussed matters generally, and asked about dates of probable final dividend. [494]

Jan. 31.

Letter dated Jan. 28th, received from Attorney Plowden Stott re Applegate claim enclosing copy of letter received from Attorney Heffron; suggesting that we have Mr. Maloney, the former store manager of the Eugene Store, in Mr. Stott's office before Feb. 7th, the day of the hearing.

Examined letter from Attorney Heffron mentioned above.

Had conference with Mr. Lieurance.

Passed upon several creditors claims.

Feb. 1, 1927.

Went with Mr. Lieurance to the office of Attorney Francis J. Heney, in San Francisco by appointment and agreed upon forms of stipulations of amounts in the matter of their

agreement to a reduction in the amounts of allowances on account of services rendered, and Mr. Lieurance and I, and Mr. Heney and Mr. Townsend signed stipulations in triplicate for each Western Jurisdiction. Stipulations were then sent to the office of Mr. Joseph Kirk, and I waited for return thereof, but at 4:30 o'clock I was told that there was a little unaccountable delay but that the stipulations would be mailed and reach me tomorrow without fail. Spent entire day in this matter at San Francisco.

Feb. 2.

Letter sent to Special Master, F. O. Nebeker giving him information concerning the Pilcher proceeding; stating that a number of claims had been filed with the Receivers here which will need his attention; sending him a copy of the Order of Appointment; reminding him of the fact that the matter of the Schingler claim will come before him on Friday, Feb. 4th. at 10:00 o'clock for hearing.

Letter dated Feb. 1st. received from Attorney W. Coburn Cook at Turlock stating that he is bringing an action on behalf of M. M. Berg against the Receivers covering a number of items; asking if I will accept service on behalf of defendants, and making a number of requests concerning the proposed action. [495]

Letter sent to Attorney W. Coburn Cook of

Turlock referring to his of the 1st, and suggesting to him that the action cannot be brought by him in the State Courts; calling his attention to the fact that a Special Master had been appointed for the purpose of Hearings on disputed claims, and suggesting that we agree upon a time for hearing.

Went to the office of Special Master, F. O. Nebeker, and had a conference with him concerning proposed procedure in the matter of the hearings on disputed claims.

Had lengthy conference with Mr. Lieurance and with Phillip A. Hershey, the auditor.

Feb. 3.

Letter dated Feb. 2nd, received from Attorney H. L. Chamberlain of Modesto re. Haymon-Krupp (Grace Cutting) vs. Pilcher Co. referring to our telephonic conversation of last Monday; discussing his case at length giving his authorities; suggesting Motion of Injunction so as to allow him to go forward with his suit, and suggesting his objections to our demand to have the sum of \$2,674.09 in this case of attachment delivered to the Receivers.

Conferred at some length with the auditor, Phillip A. Hershey.

Attended the hearing before Special Master, F. O. Nebeker in the matter of the disputed claim of John F. Schingler; spent the entire morning in the taking of the testimony and in discussion, and at the conclusion we se-

cured the consent of Mr. Schingler to allowance of his claim as a general claim (he had insisted heretofore upon being given a preference).

Feb. 5.

Telegram received from Attorney Plowden Stott re. letters and telegrams to be used in the matter of the hearing of Ambler vs. R. A. Pilcher Co. [496]

Feb. 7.

Telegram sent to Attorney Plowden Stott telling him that my entire Applegate file was left with him, and that Mr. Maloney, former store manager, has all the details concerning the transactions with Mr. Applegate, and that he can furnish them when needed.

Letter sent to Attorney Stanley M. Arndt of Stockton, Cal. re. claim of Eastman-Gibbons Co. suggesting that someone representing this Company had seen me this morning and had expressed a desire to have the matter heard this week before the Special Master; Thursday was the time fixed subject to his approval.

Called at the office of the Special Master and arranged for hearing of the Eastman-Gibbons claim on February 10th.

Conferred with Mr. Lieurance for several hours.

Feb. 8.

Went to San Francisco to the office of Mr.

Heney, spent a half a day making the trip.
Feb. 10.

Letter dated February 8th received from Attorneys McNoble & Arndt of Stockton, Cal. re. claim of Eastman-Gibbons Co. notifying me of absence of Attorney Arndt and requesting that I have this matter put over for at least 2 weeks.

Had interview with Mr. J. L. Taylor of Stockton who is the Secretary of Eastman-Gibbons Co. He said that McNoble & Arndt would not represent his Company or him in any way. I telephoned to Stockton and it was admitted that there was no employment, but was suggested that it would be all right to discuss matters with Mr. Taylor.

Received letter from Eastman-Gibbons Co. of Stockton stating that notice has just been received to the effect that Judge Nebeker had set Thursday, Feb. 10th, for the hearing of its claims; suggesting that the matter be continued to the 15th, and also that attorneys McNoble & Arndt would not represent them.

[497]

Letter sent to Eastman-Gibbons Co. replying to letter of the 9th stating at their request we have had the matter continued to Tuesday, Feb. 15th, 1927, at request of Mr. Taylor, Secretary of the claimant.

Letter sent to Zillabach Paper Co. stating that at request of Mr. Taylor of the Eastman-

Gibbons Co. we have had the hearing on the claim set over to February 15th, 1927.

Letter received from Attorney Francis J. Heney referring to our conversation over the telephone and suggesting in a 2½ page letter a number of changes in the form of stipulation.

Letter received from Attorney Plowden Stott stating that he spent some time with Mr. Maloney going over the facts of the Applegate claim matter; discussing the Alder Investment Company lease matter, etc.

Feb. 11.

Sent a 4½ page closely written letter to Attorney Francis J. Heney and B. D. Townsend in reply to theirs of February 10th discussing the stipulations. Mr. Lieurance and I had already signed upon the representation that they were agreeable in substance and form to Mr. Walton N. Moore and Attorney Joseph Kirk, and commenting at length on the refusal of Mr. Moore to sign in view of the statement made to me that Mr. Moore and Mr. Kirk had seen the form of stipulation and agreed to sign it, and that it had the approval of the New York Committee, and particularly in view of the fact that he had sent under his own signature a telegram to Mr. Fraser, chairman of the New York Committee of Creditors "and recommending that the New York Committee approve the arrangement" and stating among other things

“Specifications further provide that \$15,000.00 allowed to Lieurance and Eliassen respectively shall be considered minimum agreed payments on account, and shall not be further reduced,” and also “that although further proceedings are taken in Bankruptcy matter exclusive right to fix Lieurance’s compensation and Eliassen’s fee shall rest with Receivership Courts;” discussing Mr. Moore’s suggested changes and giving our views.

Conferred at considerable length with Mr. Lieurance spending the entire day in this matter.

[498]

Feb. 12.

Letter dated Feb. 10th, received from Attorney W. Coburn Cook of Turlock, California, replying to mine concerning the Hearing before Special Master of the matter of the various claims of M. M. Berg and suggesting that he would like to have me obtain several dates from which to choose.

Letter dated Feb. 10th, received from Attorney Plowden Sott re Ambler claim referring to me a letter written by Lester W. Humphreys re. hearing in the matter of their claim.

Feb. 14.

Letter sent to Attorney Stanley M. Arndt, at Stockton, representing Dave Matthews, stating that Special Master had fixed the time for hearing in the matter of this claim, and

that the hearing would take place on Monday, February 21st, 1927.

Letter dated Feb. 10th, 1927 received from Attorney Plowden Stott re. Applegate claim stating that Judge Bean indicated to the Attorney for Applegate that his claim should not be allowed as preferred; that the matter was referred to a referee for the taking of testimony; that he had appointed Mrs. Bell, Court Reporter, for that purpose, and that the testimony of their witness, Mr. Maloney, was taken on the 7th; that the testimony on behalf of your client would be taken at Eugene, Oregon, on February 14th.

Letter dated February 11th, 1927, received from Kilgreene & Flynn of Portland stating that they have been expecting dividend and asking when it will be paid.

Attorney Plowden Stott attended a hearing before O. E. Immell at Eugene, Ore., in the matter of the disputed claim of Applegate, and agreed with attorney and claimant to submit the matter on briefs.

Letter sent to Attorneys Lowenthal, Collins & Lowenthal, Los Angeles, announcing the appointment of F. O. Nebeker as Special Master, and that the matter of the disputed claim of the Webber Show Case & Fixture Company would be taken up before the Special Master on Thursday, February 4th, 1927; suggesting also that if the time does not meet with their approval I should be pleased

to have them let me know so that I can arrange for another date.

Letter sent to Attorney John R. Cronin, at Stockton, [499] California, re. claim of Sherman & Wise announcing the appointment of F. O. Nebeker as Special Master and that an appointment had been made for the hearing of the contested claim on Wednesday, February 23rd, 1927; suggesting also that I hear from *from* as to whether or not the time is agreeable.

Letter sent to Attorney W. Coburn Cook of Turlock, California, notifying him of the appointment of a Special Master, and suggesting that I had arranged to have a hearing on the disputed claims of M. M. Berg, his client, on Friday, February 18th, 1927.

Memorandum letter sent to Mr. Lieurance giving him the dates of hearings before Special Master on the disputed claims of M. M. Berk, David Matthews, Sherman & Wise, and Webber Show Case & Fixture Company.

Attended the Court of the Special Master, Frank O. Nebeker, and spent a half a day in the matter of the taking of testimony.

Had long conversation with Mr. Lieurance and Mr. Hershey, the auditor, relative to claims.

Feb. 15.

Letter sent to Attorney Plowden Stott re. request made on Mr. Layton to cause wire to be sent to New York on behalf of Oregon creditors protesting against Bankruptcy mat-

ter, and suggesting that I did not believe New York Committee is disposed to force the matter to adjudication.

Letter to Plowden Stott in reply to his of January 25th, suggesting that I went to Portland in December and that an Order was made authorizing a 40% dividend to creditors, and allowing the \$10,000.00 on account of attorneys fees; touching upon the general situation concerning fees and allowances and the matter of his compensation.

Letter sent to Attorney Stanley M. Arndt stating that Mr. Lieurance has not been served with a Summons in the Supreme Court action brought against him in San Joaquin County; that so far as a continuance of the hearing on the Matthews claim before him is concerned [500] Mr. Nebeker feels he cannot comply with the request to continue the matter three weeks, and that he has put the matter down to be heard on February 28th, and that the Master prefers to have all witnesses appear before him in person.

Attended Special Master's Court and participated in the proceedings in the matter of the disputed claim of Eastman-Gibbons Company.

Letter sent to Attorney Plowden Stott making several suggestions concerning attempted settlement with Kilgreene & Flynn.

Long conference with Mr. Lieurance.

Feb. 16.

Telegram sent to Attorney Plowden Stott stating that Mr. Flynn of Kilgreene & Flynn is here in Oakland today, and has agreed with Mr. Lieurance to have the claim of his firm considered as a general one; that Mr. Flynn has wired his attorney "will dismiss the suit in Portland"; suggesting he get in touch with Mr. Manning, the Attorney, and get stipulation and satisfaction of all claims against Lessors and sub-lessors and Discharge of Lien, and release of Bond furnished on behalf of Receivers, and when this has been done to wire me so that Mr. Lieurance can hand Mr. Flynn a cheque to cover 40% of claim representing first dividend.

Letter sent to Attorney Plowden Stott re. Ambler claim.

Had long telephonic conversation with Los Angeles Attorney, Collins, speaking on behalf of the Webber Show Case Company.

Feb. 17.

Telegram received at my office from Attorney Plowden Stott re. night letter of yesterday.

[501]

Letter to Attorney Plowden Stott concerning hearing in Applegate matter stating that the matter should be heard before the Special Master at Portland instead of before a Referee at Eugene; suggesting that Kilgreene & Flynn matter is now out of the way; call-

ing his attention to the fact that the claims of the J. C. Brill Stores, W. F. Ambler, Sigwart Electric Company and Stein Bros., aggregating \$8,156.79, are still to be disposed of; stating that I will write to Attorney E. O. Immel to get in touch with Mr. Stott concerning the matter of the hearing before Robert F. Maguire, Special Master; discussing procedure; giving the names and addresses of the attorneys for the clients, and suggesting that we desire to close the administration as soon as possible.

Telegram to Attorney Plowden Stott stating Receiver has sent a check for \$150. payable to Milarky, Seabrook & Dibble, attorneys for one of the defendants; suggesting that Flynn would like to get his check today but that it will be held until we receive his further wire.

Telegram received from Attorney Victor Ford Collins re his client's claim.

Feb. 18.

Letter sent to Sheriff Reicks of Stockton, forwarding him for service on Dave Matthews a copy of Order made by the United States District Court at San Francisco on June 9, 1926, and also another order of the same Court dated August 9, 1926, requesting that service be made as soon as possible.

Letter sent to Attorney Stanley M. Arndt rejecting offer of compromise of claim of Dave Matthews; declining to agree to take deposition of his client and witnesses at

Stockton; giving reasons therefor; and discussing various phases of the case.

Letter dated February 15th from Attorney Plowden Stott re Applegate claim, stating that he went to Eugene on Sunday and appeared yesterday before E. O. Immel, U. S. Commissioner at Eugene, and participated in the taking of testimony, and stating further that the attorneys have agreed to submit the matter to Judge Bean on briefs.

Letter received from Attorneys McNoble & Arndt dated February 17th; stating that letter is written without prejudice to the right claimed to objection to the jurisdiction of the Special Master; also in the *matter* [502] *the* claim of Eastman-Gibbons that basis of settlement be offered; also stating that complaint of the suit instituted in San Joaquin County against the Receivers had been returned.

Attended trial before the Special Master in the matter of the various claims of M. M. Berg.

Consulted and advised with Mr. Lieurance several times during the day.

Feb. 19.

Letter dated Feb. 17th received from Attorney Plowden Stott re Kilgreene & Flynn, stating that in reply to my telegram of the 16th he got in touch with Attorney Manning, representing the claimant, and with the Attorneys for the Bonding Company and arranged that

they have dismissal of suit; that Chamberlain, Thomas, Kraemer & Powell, Attorneys for one of the defendants agree that the \$100.00 already paid them would be accepted in full for their services, and that Milarkey, Seabrook and Dibble demand a fee of \$150.00; reiterating a fact that the Bond furnished agreed to save the obligatees harmless from all demands including attorneys fees; that since then he had received a wire from me that check for this latter amount was on its way; suggesting that he was getting stipulations; that he would furnish me with copies of Order of Dismissal and return the bonds.

Letter from Attorney Plowden Stott re sublease of the Alder Investment Company stating that Wm. P. Merry Co. was consulted concerning same but that after investigating the lease said he could be of no service; was going into the various aspects of the case, the said letter covering 3 pages of closely typewritten matter.

Feb. 21.

Letter to Attorney B. D. Townsend acknowledging receipt of his favor of Feb. 19th.

Letter to Attorney Plowden Stott re Ambler matter and the procedure to be followed; commenting upon allowances and the possibilities connected with Bankruptcy, and stating that we are hurrying on to a close of the administration. [503]

Feb. 21.

Letter to Stanley M. Arndt in reply to his letter of the 19th re claim of Dave Matthews, his client, stating that the Master feels that claimant and his witnesses should appear before him; that I prefer to examine them here; calling his attention to the law covering the taking of depositions; criticizing his view of the law and calling his attention to Section 1224 of the code; and discussing the matter of the service of Restraining Order upon Dave Matthews.

Letter sent to Attorney Plowden Stott acknowledging his letter of Feb. 17th, with enclosures in the Kilgreene & Flynn matter.

Letter received from Plowden Stott in reply to my letter of the 17th enclosing check for \$150.00 payable to Milarkey, Seabrook & Dibble; also re Order appointing Robert F. Maguire Special Master; also concerning various claims.

Letter received from Attorney B. D. Townsend stating that he had found Mr. Moore very uncompromising as to his position, etc., relative to form of stipulation agreed upon between the attorneys.

Received and examined copy of letter from Attorney Joseph Kirk, to Mr. Heney explaining attitude of Mr. Moore.

Letter from Plowden Stott replying to night-letter of the 15th concerning Appointment of Special Master.

Discussing the matter of the sub-lease of the Alder Investment Company and certain claims; and also compensation.

Letter received from Attorneys McNoble & Arndt of Stockton, dated Feb. 19th stating that Mr. Arndt did not wish to bring his witnesses to Oakland, etc.

Letter received from A. G. Tschierschky, Deputy Sheriff of San Joaquin County, stating that Orders in Ancillary proceedings heretofore sent to Sheriff for service upon Dave Matthews had been duly served, and asked that an Affidavit of Service be prepared and sent to him for his signature.

Attended the Court of Special Master, F. O. Nebeker, in [504] the matter of the continued hearing on the various claims of M. M. Berg.

Consulted and advised with Mr. Lieurance and with Mr. Hershey, the auditor.

Feb. 23.

Telegram received from Plowden Stott re. four disputed claims to be heard before the Special Master at Portland, Oregon.

Telegram to Attorney Plowden Stott stating that files in contested cases were sent him last week.

Letter to Attorney W. Coburn Cook, representing M. M. Berg, suggesting that Special Master stated this morning that he felt he should have the testimony of Mr. Swanson, former

store manager of the Stockton store, and directing us to have him appear on Friday the 25th for examination; suggested also that the Judge had written to him (Mr. Cook).

Conferred with Mr. Lieurance.

Feb. 24.

Received long letter from Attorney B. D. Townsend relative to stipulation stating that he had been advised by Mr. Kirk that form has met with the approval of Mr. Walton N. Moore.

Feb. 25.

Telegram received from Attorney Stott acknowledging receipt of files in disputed claim matters suggesting that hearings would be arranged for at early dates; also outlining procedure concerning sub-lease and its assignment.

Telegram sent to Attorney Plowden Stott re files suggesting that on day of confirmation of sale of stores Judge Bean heard request on behalf of Brill Stores for amount of claim now in litigation and granted it; suggesting further that they start [505] publication of Notice of Sale of interest in Portland lease giving time allowed by law, and fix his office as place of sale; and asking for his views.

Letter sent to Sheriff, Wm. H. Reicks, San Joaquin County, enclosing for his signature

Affidavit of Service with the request that he return it to me when executed.

Prepared and drafted Affidavit of Service of Orders for signature of Sheriff Reicks.

Letter dated Feb. 23rd. received from Attorney Plowden Stott re Kilgreen & Flynn enclosing copy of letter from Attorney Harry L. Rafferty, representing the Globe Indemnity Company, advising us that the liability under the Bond is at an end; suggesting also that three or four attorneys representing claimants whose claims are disputed have agreed upon dates for hearings before Special Master.

Attended Court of Special Master F. O. Nebeker, and participated in further hearing in the matter of the disputed claims of M. M. Berg.

Consulted and advised with Mr. Lieurance.

Feb. 26.

Letter sent to Globe Indemnity Company at Oakland re bonds furnished against Mechanics Lien suit in Portland instituted by Kilgreene & Flynn; notifying the Company that we had settled the case and that the suit has been dismissed with prejudice; stating that Attorney, Harry L. Rafferty, representing the Portland office of the Company, has written to the San Francisco office under date of Feb. 21st to the effect that suit has been dismissed and that liability of the Company is at an

end, and suggested that any collateral obtained before the issuance of Bond be returned. I also suggested that they send me a letter stating that the Bond had been returned and that the matter is closed

Telegram sent to Attorney Plowden Stott acknowledging wire of the 25th, and suggesting that we realize that only sub-lease can be given because of provisions in Alder Investment Co. sub-lease, and stating that I believe it would be well to publish notice for 10 days unless the Oregon law prescribes differently; suggesting [506] further procedure and asking that Notice be started Monday.

Letter sent to Attorney Plowden Stott acknowledging his letter of the 23rd with enclosures relating to the matter of Kilgreene & Flynn.

Feb. 28.

Letter received from Attorney H. L. Chamberlain of Modesto re Haymon-Krupp Co. vs. Pilcher Co. suggesting that check to cover 40% dividend was received some time ago.

Examined letter of Feb. 25th received by Mr. Lieurance from McManus, Ernst & Ernst re adjudication by default in Bankruptcy matter.

Consulted and advised with Mr. Lieurance for several hours.

Letter received from Attorney Francis J. Henney.

Long distance telephone conversation with Attorney Chamberlain.

March 1.

Letter from Globe Indemnity Co. in reply to my letter of Feb. 26th stating that my letter was forwarded to San Francisco office and that the matter of the cancellation of Bonds will be handled from that office.

Prepared notice of proposed sale of sub-lease of Alder Investment Co.

Consulted with Mr. Lieurance and Mr. Hershey relative to the Haymon-Krupp claim.

March 3.

Letter received from Attorney Plowden Stott dated March 1st acknowledging receipt of my letter of Feb. 17th, and referring to claims of J. C. Brill Stores, W. H. Ambler, Sigwart Electric Co., Stein Bros. and the Albany Democrat Herald (Attorneys [507] Hill & Marks representing the newspaper); suggesting that in accordance with my request the matters in dispute would be taken before the Special Master appointed for the purpose, and that the matter of the Brill Stores claim had been set down for hearing on March 3rd; also suggesting that he had consulted with other attorneys as to times when they would be willing to have their matters heard; also going into detail concerning these various claims.

Telegram received from Attorney Plowden Stott asking if I desire stenographic notes taken of proceedings in hearings on disputed claims.

Telegram from Attorney Plowden Stott stating that hearing today on Brill Stores claim very satisfactory; that Ambler hearing would take place tomorrow; and asking reply to certain questions concerning Ambler claim.

Letter received from Attorney Stott dated March 1st, replying to my telegram concerning sale of sub-lease.

Attended Court of Special Master, Nebeker, on further hearing relative to disputed claims of M. M. Berg; spent all afternoon on this matter.

March 4.

Telegram sent to Attorney Plowden Stott suggesting that in the matter of the Ambler claim it would be well to have claimant establish every item and to concede nothing.

Hearing on Brill Company claim attended by my local counsel, Plowden Stott, at Portland, before Robert F. Maguire, Special Master at Portland.

Attended Court of Special Master F. O. Nebeker in the Matter of the disputed claim of the Weber Showcase & Fixture Co. aggregating \$33,743.21. Spent greater part of day in this matter.

March 5.

Attended Court of Special Master, F. O. Nebecker, re [508] disputed claim of David Matthews.

March 7.

Letter dated March 4th received from Plowden Stott stating that he had spent entire afternoon before Special Master, Maguire, at Portland, in hearing on Brill stores Claim (Samuel B. Weinstein appeared for the claimant); suggesting also that Mr. Weinstein appeared anxious to compromise.

Letter to Attorney Plowden Stott replying to his letter of March 4th.

Conferred with Mr. Lieurance and Mr. Hershey several times during the day.

March 8.

Telegram sent to Attorney Stott in reply to his wire suggesting the taking of testimony in writing.

Letter sent to Attorney Stanley M. Arndt of Stockton in reply to his of March 7th; commenting upon form of stipulation proposed, and stating that I have signed it and will return same to him today.

Letter received from McManus, Ernst & Ernst, replying to my telegram to them of March 3rd in relation to the entry of Order of Adjudication in the Bankruptcy proceedings; giving reasons for adjudication, and stating that its effect will not prejudice our rights in the Equity Courts.

Letter received from Attorneys McManus, Ernst & Ernst stating that Mr. Hershey was in error when he stated that no claim had been received on behalf of Dave Matthews; enclosing draft of proposed stipulation setting forth various correspondence between his office and mine, and requesting my signature thereto.

Examined carefully draft of proposed stipulation and signed same after making certain charges; said stipulation to be used by the Special Master in consideration of the disputed claim of Dave Matthews. [509]

Conference with Mr. Lieurance lasting 2 hours.

March 9.

Long interview with Mr. Hershey, the auditor. Spent some time in drafting reply to Attorney Francis J. Heney.

Consulted with Mr. Lieurance.

March 10.

Letter received from Attorneys, McNoble & Arndt giving data required in hearing as to the employment of Dave Matthews by Pilcher, and enclosing a statement of the evidence adduced before the Special Master as he recalled it.

March 11.

Lengthy letter sent to Attorney Plowden Stott re Ambler matter and the procedure therein; re compensation; re. news just received from Attorneys McManus, Ernst & Ernst concern-

ing Bankruptcy at New York and concerning wire I sent, and the reply thereto, and setting out copy of letter received from New York attorneys suggesting among other things that the Bankruptcy matter cannot in any way work to our prejudice.

Letter sent to Attorney Francis J. Heney in reply to his letter of the 10th suggesting that I will go over the subject of his letter and will let him hear from me later.

Letter sent to Attorneys, McManus, Ernst & Ernst at New York thanking them for their letter of the 4th discussing the Bankruptcy proceeding at New York; suggesting that the claims, if any, of the Lessors be barred because not presented in time, and suggesting that there is no need for any Bankruptcy proceeding;

Suggesting also that the disputed claims will be disposed of soon, and that we are prepared to commence shortly with the work of the final accounts of Receivers. [510]

Lengthy letter sent to Attorney, Stanley M. Arndt, re claim of David Matthews, acknowledging receipt of carbon copy of letter sent by him to Judge Nebeker together with a copy of his comments on the testimony; suggesting that he (Arndt) has made some new statements and discussing at some length the various features of the case.

Letter sent to Attorney H. L. Chamberlain of Modesto re. Haymon-Krupp (Grace Cutting)

claim in suit suggesting that claim has been allowed as a general claim and that the additional claim for costs and Attorneys fees has been rejected; that if he has any authorities which would warrant payment of these items I should like to have them; suggesting also that it would be agreeable to us to have the matter determined before the master.

Conferred at length with Mr. Lieurance and Mr. Hershey.

March 12.

Letter dated March 10th received from Attorney Stott enclosing copy of letter received by him from attorney Samuel Weinstein re Brill Stores claim making an offer of settlement; suggesting that he (Stott) would make no recommendation and asking me to advise him as to my wishes in the premises.

March 14.

Letter received from Attorney Plowden Stott dated Mar. 12th, 1927, enclosing Affidavit of Publication and copy of letter sent to Mr. Lieurance re attempted sale of long time sub-lease of the Alder Investment Co.

Telegram sent to Attorney Victor Ford Collins suggesting that Judge Nebeker expects to report on the Weber case within the next two days, and that I will wire him on approval of report.

Telegram received from Victor Ford Collins suggesting he had not heard from us concerning approval of the Federal Court in the matter of his client's claim. [511]

March 15.

Letter received from Attorneys McNoble & Arndt enclosing copy of letter sent to Judge Nebeker making correction in memorandum of testimony; discussing further the basis of employment of Dave Matthews, etc.

Went to San Francisco and conferred with Attorney B. D. Townsend at his office spending entire afternoon in making this trip.

March 16.

Letter received from the Silverstripe Co. of New York asking about further dividends.

Called at office of Special Master, Nebeker, relative to reports.

Had conference with Mr. J. L. Taylor of the Eastman-Gibbons Co.

Sent wire to Attorney Victor Ford Collins at Los Angeles relative to claim of his client.

Conferred over 3 hours with Mr. Lieurance.

March 17.

Hearing before Special Master, Robert F. Maguire, at Portland on rejected claim of Stein Bros., Attorney Plowden Stott, my local counsel, representing me.

Hearing had before same Master on rejected claim of Sigwart Electric Co., same counsel representing me. [512]

March 18.

Letter sent to Attorney Francis J. Heney and B. D. Townsend concerning draft of proposed stipulation to take place of stipulation already signed by Mr. Lieurance and me on March 15th and which I said I would sign suggesting that I feel certain Mr. Lieurance will sign also.

Telegram sent to Victor Ford Collins of Los Angeles stating that approval of U. S. District Court Judge has been obtained on the report of the Special Master and that Receiver's check is being forwarded him by air mail this morning.

Had lengthy consultation with Mr. Lieurance and Mr. Hershey, the auditor, relative to the preparation of Final Account.

March 19.

Letter dated March 15th from Attorney B. Chandler Snead of New York asking about further dividends.

Letter dated March 17th from Attorney Plowden Stott stating that Applegate claim has been submitted to the Court and that a decision is expected next Monday; that he has received a letter from Attorney Samuel B. Weinstein practically admitting that his client has not a good claim and asking him to recommend to me a compromise settlement on the basis of \$250.00; that the Ambler claim was submitted to the Special Master

and that an opinion will be rendered shortly; that the Stein Brother's claim comes before the Master on March 17th, the day the letter was written at 2 o'clock; that the Albany Democrat Herald's claim has not yet been submitted; and containing some comment on the last matter concerning leasehold premises of the Portland store.

Another letter received from Attorney Plowden Stott dated March 17th, stating the hearing on the claim of Stein Brothers for \$4786.65 and the [513] claim of Sigwart Electric Company came on for hearing before the Special Master; stating that these claims were denied as preferred claims and that the opinion will soon be filed and copies of the orders will be sent when they are made; also commenting on the testimony at length.

Received letter from Attorneys Lowenthal, Collins & Lowenthal acknowledging receipt of telegram re: settlement of claim of their client on basis agreed.

Examined a number of claims.

Had long consultation with Mr. Lieurance and Mr. Hershey.

March 21.

Consulted several times during day with Mr. Hershey and Mr. Lieurance.

March 22.

Spent entire day working on changes on stipu-

lation proposed through Attorney Francis J. Heney and in consultation with Mr. Lieurance.

March 23.

Obtained dismissal of action Haymon-Krupp Company brought in the name of Grace Cutting vs. R. A. Pilcher Co. Inc. pending in Stanislaus County, California.

Letter dated March 22nd received from Attorneys Brown & Chamberlin of Modesto re: claim of Haymon-Krupp Company, admitting that we have right to [514] discharge of attachment and that our action in rejecting claim as preferred is correct.

March 24.

Letter received from Globe Indemnity Company re: Bond #508435 of A. F. Lieurance. Several consultations with Mr. Lieurance during the day.

March 25.

Letter sent to Globe Indemnity Company, Oakland, replying to letter of 24th and letter inclosing agreement signed by Receiver Lieurance concerning bond written by this company through its Seattle agency; suggesting also that the original which was left in blank be returned to me.

Letter sent to Attorney Stanley M. Arndt of Stockton re: Dave Matthews vs. R. A. Pilcher Co. Inc. and A. F. Lieurance suggesting that Mr. Lieurance brought in copy of the com-

plaint in the action brought in San Joaquin County #20637, and suggesting that service was probably made through oversight in view of the fact that the claim is being litigated in the Federal Court before the Special Master and suggesting that the Superior Court action should be dismissed immediately.

Letter sent to B. Chandler Snead of New York re: Diamond Match Company's claim suggesting the next dividend will probably be for ten per cent.

Letter sent to Attorney H. H. Chamberlin of Modesto replying to his two letters of March 22nd re: Haymon Krupp claim stating that claim for Attorney fees and [515] costs is not proper and had been disallowed.

Letter sent to Attorney Stott relating to the various claims; and in which we give him such facts as we have concerning the claim of the Albany Democrat Herald.

Conferred for several hours with Receiver Lieurance and Phillip Hershey.

March 28.

Telegram received from Attorney Victor Ford Collins stating that Mr. Deering of the Weber Showcase and Fixture Company will be in San Francisco tomorrow and is desirous of a copy of the order of settlement so that he can take it to Oregon and Washington.

Letter received from Globe Indemnity Com-

pany re: bond of A. F. Lieurance in reply to my letter of March 25th.

March 29.

Letter sent to Attorney Stanley M. Arndt of Stockton in answer to his letter of March 28th in the matter of the suit of Dave Matthews vs. R. A. Pilcher Co. Inc.

Letter from Special Master F. O. Nebeker relative to the claim of Weber Showcase and Fixture Co.

Letter received from Attorneys McNoble & Arndt of Stockton asking if copy of letter that I had sent to him had been sent to the Master. [516]

March 30.

Conferred with Mr. Lieurance and Mr. Hershey most of the day.

April 4.

Letter dated April 1st received from Attorney Stott sending me copy of the order denying claim of Albert D. Applegate as preferred claim and allowing it as a general claim and stating that he has arranged for the Attorneys for the Albert D. Applegate Company to take up matter of that claim next week.

Conferred with Mr. Lieurance and Mr. Hershey for upwards of three hours relative to claims in the matter of Final Accounting.

April 5.

Letter sent to Plowden Stott in reply to his letter of April 1st relative to order in the

matter of disputed Applegate claim; also concerning Albany Democrat Herald; stating that we have a large force working on the final account of the Receivers and suggesting that we should have the account completed in the next ten days or two weeks also making suggestions concerning other disputed claims in Oregon.

Letter sent to Attorney Stanley M. Arndt of Stockton in reply to his of the 28th ultimo concerning disputed claim of Dave Matthews and suggesting that it is agreeable to me to have him send to Special Master F. O. Nebeker a copy of his letter sent to me on March 12th or to send me other information which may throw light upon the subject.

Went to the office of Special Master F. O. Nebeker [517] concerning the Eastman-Gibbons claim.

Spent part of the day consulting with Mr. Hershey and Mr. Lieurance relative to the Final Account of Receivers.

April 6.

Letter sent to Sheriff of Stanislaus County re: Humphreys and Matthews vs. R. A. Pilcher Co. Inc., proceeding No. 20074, pending in the Superior Court of San Joaquin County, handing him instructions signed by the Attorney for the plaintiff to turn over to Mr. Lieurance, the Receiver, all moneys under attachment and particularly moneys levied

upon the People's State Bank at Turlock and asking that the necessary releases be given to the Bank.

Consulted with Mr. Hershey relative to the Final Account for over two hours.

April 8.

Hearing at Portland before the Special Master Robert F. Maguire in the matter of the rejected claim of the Albany Democrat Herald; Attorney Plowden Stott my local counsel attended.

Worked four hours on the proposed report of Receivers.

April 9.

Letter sent to Attorney Stanley M. Arndt of Stockton [518] re: Dave Matthews vs. R. A. Pilcher Co. Inc. acknowledging receipt of a copy of letter sent by him to Judge Nebeker; and suggesting that I did not care to make any further reply for the reason that the record in the case would speak for itself.

Received letter from Attorney Stanley M. Arndt inclosing copy of letter sent to Judge Nebeker commenting on the testimony given in the claim of Dave Matthews. Conferred at length with Mr. Lieurance.

Stipulations received from the office of Mr. Heney.

Consulted with Mr. Lieurance and Mr. Heney several times during day.

April 11.

Sent letter to Attorney Plowden Stott in reply to his of April 8th stating that matters are almost completed in Oregon; making suggestions as to the Final Accounts and the times for hearing thereof.

Letter dated April 8th received from Plowden Sott in reply to mine of April 5th stating that the hearing on the claim of the Albany Democrat Herald comes up today, stating further that each of the opinions of the Master so far given have been filed with the Court and that the Orders of the Court will be sought upon the lapse of twenty days from the time of filing of the opinions; also asking about the filing of the Final Accounts.

Consultation and advice with Mr. Lieurance and Mr. Hershey for four hours.

April 12.

Letter sent to Attorney Francis J. Heney confirming [519] suggestion made over the telephone that the stipulation should contain a recital that Mr. Lieurance had done all of the work of the Receivers in the Western jurisdictions and noting the fact that such a change would be agreeable to him; suggesting the language desired by Mr. Lieurance and suggesting that it would give me pleasure to hand such stipulation to him next week.

Consultation with Mr. Hershey, the auditor, lasting *our* four hours.

April 15.

Letter sent to Attorney Stanley M. Arndt re: Dave Matthews vs. R. A. Pilcher Co. Inc., and Lieurance suggesting that my understanding was that the action was to be dismissed and asking what he had done in the premises.

Consultation with Special Master Nebeker at his office.

Prepared notices to creditors to be given in the four ancillary jurisdictions concerning the time to be fixed for the final hearing on the Receivers Final Account and Report and Petition.

Conferred with Mr. Hershey several times during the day.

April 16.

Spent entire day in the preparation of the Report of the Receivers. [520]

April 18.

Letter received from Attorney Plowden Stott inclosing copies of Orders and miscellaneous information concerning claims.

Letter received from Attorney John C. Hogan of Aberdeen, Washington.

Letter sent to John C. Hogan.

Prepared for use in the matter of Dave Matthews vs. R. A. Pilcher & Co. Inc. and A. F. Lieurance proceedings in the Superior Court of San Joaquin County, the following: Motion for Change of Place of Trial, Affi-

davit of A. F. Lieurance and Affidavit in Support of Motion, Affidavit of Merits, Demand for Change of Place of Trial and Demurrer to Complaint.

Consulted and advised with Mr. Lieurance and Mr. Hershay several times during the day.

April 19.

Letter sent to Sheriff of San Joaquin County re: Dave Matthews vs. R. A. Pilcher & Co. et al., handing him for service on Attorneys McNoble and Arndt and upon Dave Matthews copies of the Motion for Change of Place of Trial, Affidavit in Support of Motion, Affidavit of Merits, Notice of Motion, Demand for Change of Place of Trial and Demurrer to Complaint.

Letter sent to County Clerk of San Joaquin County re: the above case and inclosing the original instruments mentioned above for filing.

Letter sent to Stanley M. Arndt re: Matthews vs. R. A. Pilcher & Co. Inc., the proceeding mentioned above, stating that I certainly had the understanding that the action would be dismissed and suggesting [521] as it is his intention to have the matter of his claim thrashed out in the State Court, as well as, in the Federal Court I would have to take steps to prevent such a situation and that I would have to apply to the U. S. District Court for an Order to Show Cause why the

action pending in San Joaquin County should not be dismissed and Mr. Matthews punished for contempt.

Letter received from Attorneys McNoble and Arndt stating that action will not be dismissed unless Special Master allows the claim to be paid in full.

Letter from Special Master Nebeker inclosing copy of Report made to the U. S. District Court.

Consulted and advised with Mr. Lieurance several times during the day.

April 20.

Prepared draft of Petition for Order to Show Cause to be directed against Dave Matthews; also prepared draft of proposed Order to Show cause.

Consulted and advised with Mr. Lieurance in the premises.

April 21.

Letter from Deputy Sheriff of San Joaquin County stating that all papers had been served.

April 22.

Consulted and advised with Mr. Lieurance and Mr. [522] Hershey most of the day.

April 25.

Letter to Special Master F. O. Nebeker.

Letter to U. S. Marshall in San Francisco, relative to contempt proceedings vs. Dave Matthews.

Letter to Attorney Stanley M. Arndt.

April 26.

Consultation with Mr. Hershey for several hours.

Worked three hours on law in Matthews case.

Consultation and advice with Mr. Lieurance several times during the day.

April 27.

Consulted and advised with Mr. Hershey for one hour.

Letter from Attorney Plowden Stott stating that Judge McNary signed Order approving opinion of Special Master disallowing claim both as preferred and general in the matter of J. C. Brills Store; stating that this closes all of the contested matters in Oregon and asking when final account will be filed.

Lengthy letter (four closely written pages) to Stanley M. Arndt re: Matthews vs. R. A. Pilcher Co. Inc., discussing in detail his letter of April 26th and the matter of the contempt of Mr. Matthews in bringing this Superior Court action [523] in San Joaquin County after having been restrained by Order of the Federal Court as return as February 19th, 1927, after he had submitted this cause to the Special Master; also of his contempt in bringing suit against the Receivers without obtaining permission from the Federal Court so to do; discussing at length the law covering contempt and citing numerous cases and giving excerpts therefrom.

Letter received from Attorneys McNoble and Arndt concerning the action brought by them on behalf of Dave Matthews; stating amongst other things that suit cannot be dismissed until after the contempt proceedings were discharged.

April 28.

Consulted and advised with Mr. Hershey and Mr. Lieurance concerning accounting and report for over six hours.

Letter sent to Attorney Plowden Stott in reply to his of the 25th stating that the final account and report are nearing completion.

Letter to Clerk of the U. S. District Court at San Francisco, sending Affidavit of Sheriff William H. Reicks of San Joaquin County for filing.

April 29.

Continued to work on preparation of Petition and Orders re: proposed dividend of ten per cent.

Conferred with Mr. Lieurance for over two hours; consulted and advised with Mr. Hershey in excess of one hour. [524]

April 30.

Received Cost Bill re: Berg vs. R. A. Pilcher & Co. Inc., examined same and conferred with Mr. Lieurance.

Conferred with Mr. Hershey for over two hours concerning accounts. [525]

May 2.

Letter sent to Judge Robert S. Bean, Portland, Oregon, stating that the final account of the Receivers is almost ready; suggesting that some of the Creditors are anxious to get some money and that Receivers are desirous of paying an additional dividend amounting at this time to 10%; suggesting that Judge Hand of New York so we are advised by wire made an Order permitting payment of this dividend, and that we are enclosing Petition and draft of proposed Order for him to sign, and asking the Judge when Order is signed to have his Secretary wire me to that effect, charges collect, and mail me a carbon copy of the Order.

Telegram from Attorney, Stanley M. Arndt of Stockton threatening that unless contempt proceedings against David Matthews are dismissed immediately he will hold me personally responsible.

Letter received from Attorneys, McNoble & Arndt, discussing contempt proceedings.

Conference with Mr. Hershey and Mr. Lieurance lasting 4 hours.

May 3.

Letter received from McNoble & Arndt of Stockton stating that Motion for Change of Venue was put over one week.

Conference with Mr. Hershey and Mr. Lieurance lasting 3 hours.

May 4.

Received cost bill in the matter of M. M. Berg.
Sent letter to Attorney W. Coburn Cook, his
attorney.

Examined law in the matter of contempt pro-
ceedings against Dave Matthews. Spent all
day.

May 5.

Letter received from Attorney, John C. Hogan,
of [526] Aberdeen, Wash. requesting copy
of Claim filed by Weber Showcase Company,
and copy of any order approving settlement.

May 7.

Telegram sent to Attorney, Stanley M. Arndt,
re: proposed continuance of Order to Show
Cause to May 16th.

Letter to Clerk of Judge St. Sure's Depart-
ment relative to proposed continuance to
May 6th in the matter of the Order to Show
Cause against Dave Matthews.

Several conferences during the day with Mr.
Hershey, the auditor.

May 9.

Order to Show Cause against David Matthews
continued to May 16th.

Several conferences had with Mr. Lieurance
during the day.

May 10.

Letter received from Attorneys, McNoble &
Arndt, acknowledging telegram re. Order to
Show Cause; stating that Mr. Matthews had
engaged San Francisco Attorneys to defend

him and disputing certain statements set forth in the petition.

Spent 7 hours in the matter of the preparation of final accounts and reports.

May 11.

Spent all day in the work of preparing reports and petition and in conference concerning final account. [527]

May 12.

Telegram received from Mr. Lakin, Clerk of the United States District Court at Seattle, stating that dividend Order was signed today, and that copy has been mailed to me as requested.

Telegram received from G. H. Marsh, Clerk of the United States District Court, Portland, stating that Order authorizing dividend was signed today by Judge Bean.

Worked several hours in the matter of the preparation of report, and in conferring with Mr. Hershey concerning account.

May 13.

Spent all day preparing for the hearing on Order to Show Cause against Dave Matthews.

Telegram received from Judge Webster of Spokane, stating that Order authorizing dividend was signed and filed today, and that he was mailing me carbon copy.

Telegram received from Eugene D. Graham, County Clerk of San Joaquin stating that Demurrer and Motion in case of Matthews

against Pilcher and Lieurance was continued to May 16th.

Telegram sent to Attorneys McManus, Ernst & Ernst at New York asking if copies of original Order of Appointment June 7th, 1926, were mailed to all creditors of Pilcher Company, and particularly to Humphreys and Matthews at Stockton, California, and asking for reply wire today.

Telegram sent to Sherman of San Joaquin County asking him to write me names of persons or firms served and dates of service by him on persons mentioned in previous letter.

Telegram sent to County Clerk at Stockton asking him to wire me if case against Matthews and receiving No. 20,637 has been dismissed, and if not that if any disposition has been made with Demurrer and Motion for Change of Venue. [528]

May 14.

Letter sent to Eugene D. Graham, Clerk of San Joaquin County, California, asking that matter of the Demurrer and Motion re. Dave Matthews vs. the Pilcher Company and A. F. Lieurance, receiving No. 20,637, go over for another week, and giving as a reason for this request that there is a proceeding pending in the United States District Court at San Francisco which comes up next Monday which may terminate this proceeding.

Worked the rest of the day on report and account and petition.

May 16.

Attended United States District Court at San Francisco in the matter of the contempt proceedings against Dave Matthews. Attorney P. A. Sommer appeared on behalf of the defendant, and at his request the matter was continued one week.

Consulted with Mr. Lieurance and Mr. Hershey for several hours after my return in the afternoon.

May 17.

Worked all day on Receivers report and petition and account.

May 18.

Letter received from G. H. Marsh, Clerk of the United States District Court at Portland, stating that he had received our joint letter and stipulation and Order relative to modification of Order of Dec. 16th, 1926, and that Judge Bean had signed Order May 16th, 1927, and the same was filed on the same day.
[529]

May 19th.

Drew up our final stipulation consenting to discharge of Order to Show Cause against Dave Matthews because of stipulation received that Superior Court action pending in San Joaquin County, California, in which Dave Matthews was plaintiff and the Pilcher Com-

pany and A. F. Lieurance were defendants may be dismissed (proceeding No. 20,637).

Went to San Francisco and filed Receivers final account and report and petition together with Inventory of merchandise taken in all stores and with complete statement of claims, and obtained an order from Judge St. Sure fixing June 27th, 1927, at the hour of 10:00 o'clock a. m. as the time for the hearing.

Called at the office of the Attorneys, Townsend & Heney and left copy of account and copy of report, and a copy of the petition, and also a copy of the Order of Judge St. Sure fixing the time of hearing.

Prepared Notices to be sent to all of the creditors of the time fixed.

Left stipulation and draft of proposed Order discharging Dave Matthews from the contempt Order.

Consulted and advised with Mr. Lieurance and Mr. Hershey.

May 20.

Received letter from Attorney Plowden Stott dated May 17th, 1927, suggesting that a number of creditors had asked him when final account and report were to be filed.

Consulted with Mr. Hershey relative to the account to be filed in Oregon spending 3 hours in this work.

May 23.

Sent letter to Attorney Guard C. Darrah re. Schuler-Ruhl claim.

Letter sent to Attorney Plowden Stott stating that we have been working on the final account and report for [530] several weeks, and that we have filed the account and petition at San Francisco; that the Court there has fixed Monday, June 27th, 1927, as the time for the hearing; stating also that we are now working on the preparation of the necessary papers for the Oregon jurisdiction; stating further that under a stipulation made with the Committee representing the Eastern and Western creditors we are to give all creditors at least 30 days notice by mail of the time fixed for the hearing; suggesting that as Judge Bean has heard all the matter so far it would be well to have him hear the petition, etc., and suggesting that he ascertain if Judge Bean will be in Court during the month of July.

Letter sent to Attorney Chamberlain re Haymon-Krupp claim.

May 24.

Letter received from Eugene D. Graham, County Clerk of San Joaquin County, stating that Motion for Change of Venue had been continued and requesting that on the next hearing the Motion be argued.

Spent several hours in consultation with Mr. Hershey and Mr. Lieurance.

May 25.

Consulted with Mr. Hershey several times during the day.

May 26.

Consulted with Mr. Hershey several times during the day.

May 27.

Consulted with Mr. Hershey several times during the day. [531]

May 28.

Letter received from Attorney Plowden Stott dated May 26th, 1927 relative to hearing on final account during the month of July and the fixing of fees, etc.

June 1.

Worked on report and petition for use in Northern jurisdiction, spending all day.

June 2.

Worked on report and petition for use in Northern jurisdiction.

June 3.

Worked on report and petition for use in Northern jurisdiction.

June 4.

Interviewing Attorney P. F. Sommer at San Francisco re. Matthews matter.

June 6.

Had several conferences during the day with Mr. Lieurance and Mr. Hershey.

June 7.

Worked on preparation of report, final account, etc. for use in Northern jurisdictions. [532]

June 9.

Further work on reports for use in Northern jurisdictions.

June 10.

Further work on reports for use in Northern jurisdictions.

June 13.

Worked on preparation of reports and petitions for Northern jurisdictions.

Consulted and advised with Mr. Lieurance.

Sent letter to Attorney Plowden Stott sending him Receivers report accompanying final account and petition of Receivers for settlement and approval of final account and report and for Order fixing fees; suggesting that under separate cover I am forwarding complete inventory; complete statement of all claims; final account of Receivers; and suggesting that all these papers be filed at once and that he obtain for us if possible as a day for the hearing Monday, July 25th, 1927; enclosing form of Order fixing time for hearing; and asking him as soon as Order has been signed to wire me immediately to this effect giving the name of the Judge who signed the Order and the date of the hearing, and calling to my attention any change in the form which might be made, and requesting that copy of order be sent me by mail.

Sent by American Express (insured) to Attorney Plowden Stott at Portland, Oregon,

complete inventory of all merchandise on hand June 27th, 1926, statement of all claims received and final account of Receivers.

June 14.

Worked all day on the matter of the preparation of the reports and petitions for use in the Eastern and Western districts of Washington. [533]

June 15.

Spent all day in the matter of the preparation of the reports and petitions for use in the Eastern and Western jurisdictions of Washington.

June 16.

Telegram received from Attorney R. L. Blewett of Seattle re claim of C. W. Kelly suggesting that if agreeable to me he will have hearing on the Order to Show Cause set for the 20th continued two weeks in hope that we can reach an adjustment of the matter.

Letter sent to Arthur F. Gotthold, New York.

Letter sent to Attorney R. L. Blewett, Seattle.

Letter sent to M. Mandel.

Letter sent to Attorney Victor Ford Collins at Los Angeles relative to claims.

June 17.

Telegram sent to Arthur F. Gotthold, New York, stating that I have just seen wire to Mr. Lieurance and that Mr. Lieurance is out of town; that all papers have been forwarded to Oregon and Washington but that

I have not yet been advised of the dates of hearing; that I have suggested July 25th for hearing in Portland, July 26th for hearing in Spokane, and August 5th for hearing at Seattle, and that when information is received we will send same to him forthwith; also suggested that I wrote him a letter yesterday.

Telegram sent to Attorney Robert L. Bluett, Seattle, Washington, in reply to his wire stating that I have sent claim and correspondence to Attorney Nelson R. Anderson, at Seattle, with suggestions that he handle matter for me and asking him to get in touch with Mr. Anderson.

Letter received from Attorney Plowden Stott replying to my letter of the 13th commenting upon account [534] and time to be fixed.

Telegram from Attorney Plowden Stott informing me that Order fixing time had been signed by Judge John H. McNary fixing July 25th as time for hearing.

June 18.

Telegram received from D. F. Nelson, Secretary to Judge Neterer fixing August 1st as the time for the hearing, and that the Order requires Notice to be published 30 days in the Daily Journal of Commerce at Seattle and that copy is to be mailed to each creditor in this jurisdiction.

Telegram received from Helen Walmer, Secretary to Judge Webster, that order fixing Tuesday July 26th as time for hearing on final account had been signed as submitted.

Prepared Notices in conformity with the Order of Judge Neterer.

Consultation and advice with Mr. Lieurance and Mr. Hershey.

June 20.

Prepared Notice to Creditors in Northern Jurisdictions.

Conferred with Attorney B. D. Townsend at San Francisco.

Conferred several times during the day with Mr. Hershey.

Letter received from Harry C. Clark, Clerk of the United States District Court at Spokane, Washington, acknowledging receipt of final account of Receivers together with report and petition, and stating that Judge Webster had set hearing for July 26th, 1927.

Received letter from Attorney Nelson R. Anderson of Seattle, Washington, re disputed claim of Kelly and the hearing thereof.

[535]

Letter dated June 17th received from Attorney Plowden Stott acknowledging receipt by express of Account, Inventory, and Statement of Claims.

Another letter received from Attorney Stott stating that the time fixed for the hearing

of the Final Account, etc. was July 26th, 1927.

June 23.

Letter sent to the Clerk of the United States District Court at Portland enclosing Affidavit of Mailing of Notices to all creditors of the Pilcher Company of the time of hearing on final account.

Spent several hours going over copies of accounts with Mr. Lieurance.

June 24.

Consultation and advice with Mr. Lieurance and Mr. Hershey.

June 25.

Spent all day preparing for hearing on Monday, the next, in the District Court of San Francisco on the Receivers final account, report and petition.

June 27.

Attended United States District Court at San Francisco on hearing of final account and report and petition of Receivers; objections filed in open Court on behalf of certain creditors by Attorney B. D. Townsend of San Francisco, and the hearing continued to August 8th, 1927.

Conferred with Attorney, B. D. Townsend, at his office later in the day and examined copy of objections with Mr. Lieurance and Mr. Hershey spending the entire day in this matter. [536]

June 28.

Conferred several times with Mr. Lieurance and Mr. Hershey concerning objections, spending three-fourths of the day in so doing.

June 29.

Received and examined Motion to Strike and Answer to Order to Show Cause in *C. W. Kelly vs. Pilcher Company* in United States District Court at Seattle; Attorney Nelson R. Anderson, my local counsel, filing originals on my behalf.

June 30.

Spent 4 hours in preparing data for use in hearing on final accounts in the Northern jurisdictions.

July 1.

Wrote letter to Globe Indemnity Company re. bonds and cancelling of obligations thereunder.

Sent letter to G. A. Pearson, Everett, Washington, re. claim of *C. W. Kelly*.

Received two letters from Mr. Gotthold of New York.

Received letter from Attorney, Nelson R. Anderson, re *Kelly vs. Pilcher*.

Sent letter to Attorney Anderson at Seattle.

July 2.

Spent 4 hours preparing data for hearings in the North West.

July 6.

Received telegram from Mr. Gotthold stating

he [537] desired to close estate without delay.

Telegram to Mr. Gotthold in reply.

Letter sent to Mr. Lieurance.

Letter sent to Attorneys, Heney & Townsend.

Long distance telephone conversation with Mr. Lieurance.

Spent 2 hours in the matter of preparation of hearing in the North.

July 7.

Worked all day in going over the data for use on the hearing of the final accounts.

July 8.

Conferred 3 hours with Mr. Hershey concerning data to be used on the hearing of final account.

July 9.

Spent all day getting ready for the hearings in the North West on final account, etc.

July 11.

Spent 7 hours going over data in preparation for the hearings on the final account in the North West.

July 12.

Spent 10 hours getting ready for hearings in the North West; examining data and going over the law concerning closing of Receivership administration. [538]

July 13.

Spent 5 hours preparing for hearings in Northern jurisdictions.

July 14.

Spent all day getting ready for hearings in the North West.

July 15.

Spent all day conferring with Receiver Lieurance and Auditor, Phillip A. Hershey, in consultation and advice, and in the preparation of an Answer to the legal objections and exceptions filed by Attorney B. D. Townsend to the final account of Receivers.

July 16.

Spent 4 hours in consultation with Mr. Lieurance and Mr. Hershey, and in the preparation of Answer to objections filed by Attorney B. D. Townsend on behalf of certain creditors.

July 18.

Spent all day preparing data for hearings on accounts and petitions in the North West Jurisdictions. [539]

In addition to the foregoing, my local counsel at Portland, for me and on my behalf, performed the *follow servides*:

Modish Cloak & Suit Company had instituted an action in the Circuit Court of Multnomah County, Oregon, against R. A. Pilcher Co. Inc. for the recovery of the sum of \$878.45. An attachment was issued and a keeper placed in charge of the store by the Sheriff's office. Obtained an undertaking to discharge the attachment from Royal Indemnity Company, served the same upon

the counsel for plaintiff, together with a motion to make the Complaint more definite and certain and a demand for a Bill of Particulars. Filed all these papers in the Circuit Court of Multnomah County, Oregon. Removed the keeper and kept the store open for business. Prepared a stipulation and order of dismissal at the time this claim was paid in full. Had several conferances with Mr. Millard, the local manager, and Mr. Eliassen concerning this case.

On or about July 20, 1926, Wiley Investment Company, the owner of the store room where the Portland store was situated, notified Alder Investment Company, the lessee, that by virtue of a mechanic's lien for the sum of \$6102.37 filed by Kilgreen & Flynn, against the property of Wiley Investment Company 131-133 Fourth Street, Portland, Oregon, that the lease of the said Alder Investment Company was in danger of being cancelled, said lease providing that the lessee at all times would keep the property free [540] and clear of mechanic's liens or any liens and would pay the same immediately upon notice thereof.

Alder Investment Company immediately notified its sublessee, George L. Greenfield, who immediately notified his sublessee, Wright Shoe Company, who immediately notified its sublessee, R. A. Pilcher Company, that unless the lien was paid at once that the lease would be cancelled.

Discussed matter with Mr. Eliassen and had agreed upon the proposition that if this contingency arose Mr. Stott would undertake to obtain

the permission of the Wiley Investment Company and all other sub-lessees, except R. A. Pilcher Company, to accept a bond agreeing to save all of them harmless for or on account of said alleged mechanic's lien of Kilgreen & Flynn.

Spent all day the 20th and 21st of July in negotiating with these people and corporations and in obtaining from the Globe Indemnity Company of New York, a bond and in drafting a bond which was satisfactory to and met with the approval of all of the interested persons and corporations as well as the surety company. This necessitated three drafts of the proposed bond.

Spent all day July 26th in addition, closing up this matter, securing all the signatures and correcting minor objectionable details in the bond.

Had numerous conferences with the attorneys for Kilgreen & Flynn in an effort to get them to file a claim as general creditor. I raised the point that their clients had not complied with the mechanic's lien laws of the State of Oregon in that they [541] had notified the owners of the fee simple title of the delivery of the materials and performance of the work.

The matter dragged along until early in January, 1927. Kilgreen & Flynn through their attorneys filed a suit in the Circuit Court of Multnomah County, Oregon, in an effort to foreclose their lien. This lien was for the sum of \$6102.30 in addition to this they asked for interest at the rate of 6% per annum from June 11, 1926, the further sum of \$1.45 for recording the lien and \$700 attorney's fees.

In order to protect our bond, I entered into a stipulation with the attorneys for plaintiff for time within which to appear in this case. I had numerous conversations with them in negotiating the settlement. During the month of February, 1927, this suit was dismissed, owing to the fact that Kilgreen & Flynn agreed to accept their claim as a general creditor. Prepared stipulation and order of dismissal and delivered a certified copy of same to the surety company and released the Receivers from any liability on account of the bond. It was valuable to the estate to keep the Fourth Street store open and as a running concern.

In addition to the above, spent a half day in this matter on the 17th day of February and half day on the 18th day of February.

The Sheriffs of Umatilla and Klamath Counties, Oregon, threatened to close the stores in Pendleton and Klamath Falls for the failure to pay the personal property taxes against the stores for the years 1925 and 1926. Arranged with the Sheriffs [542] to allow these stores to remain open until the moneys from Oakland could arrive in payment of the 1925 taxes, and with their consent prepared and filed petitions with the Boards of Equalization in each of these counties in an effort to obtain a reduction of the 1926 taxes.

APPLEGATE CLAIM: Preferred claim of \$454.41. Claim filed by filing petition direct in United States Court on or about October 20, 1926. Brought up on motion in United States Court. Answer prepared denying allegations in petition.

Matter brought up in United States Court on motion day. Matter referred to Miss Bell, Judge Bean's stenographer and E. O. Immel for the purpose of taking testimony. Spent half a day taking testimony of Mr. Maloney, of the Eugene R. A. Pilcher store. Spent half day in this matter on February 7th, half day on February 13th, all day on the 14th going to Eugene, Oregon, where took the deposition of Applegate's witness. Spent one day in preparation of brief. Spent part of day in preparation of Order disallowing the claim in full as preferred claim and allowing it as a general claim.

J. C. BRILL STORES: Preferred claim of \$1249.71. March 2nd spent half day preparing for hearing of this claim. March 3rd spent half day in hearing of this claim before Robert F. Maguire, Special Master. Prepared order for confirmation of Master's report, denying the claim in full as either a preferred or general claim.

AMBLER CLAIM: This was a preferred claim for \$1617.91. Claim presented by filing a motion for an Order allowing claim. Spent half day March 3rd on the law and facts preparing for hearing [543] on this claim. Spent half day March 4th in the hearing of this claim before Special Master. \$1005.25 was allowed as a preferred claim and \$666.66 as general claim. Prepared order allowing claim in part as preferred and part as general claim.

L. B. SIGWART: Preferred claim for \$448.51. Spent half day March 13th on the law and facts

preparing for this hearing. March 14th spent half day on hearing of this claim before Special Master. Claim allowed as general and denied as preferred. Prepared order confirming report of Special Master.

STEIN BROTHERS: Claim for \$4786.65. March 14th spent one day on the law and facts preparing for the hearing on this claim. March 15th spent half day in the hearing of this claim. Claim disallowed in full as preferred and allowed in full as general. Prepared order confirming report of the Special Master.

ALBANY DEMOCRAT HERALD: Preferred claim for \$520.05. April 7th spent half day in preparation for hearing of this claim. April 8th spent half day in hearing of this claim.

February 28th spent half day in preparing notice of publication of offer to sell sub-lease in Portland store and publication of same and attended to the publication of the same in the Oregon Daily Journal.

In connection with this work, wrote 131 letters and sent 39 telegrams and have held conferences with creditors, attorneys for creditors and prospective bidders.

In addition to the foregoing, my local counsel at Seattle represented me in the matter of an Order to Show Cause [544] obtained on behalf of C. W. Kelly, claimant, who insisted upon having his claim allowed as a preferred claim. The Order to Show Cause was made on June 3, 1927, by Judge Jeremiah Neterer, United States District Court Judge at

Seattle. My local counsel appeared in Court at the three hearings and obtained an Order discharging the Order to Show Cause on the 1st day of August, 1927.

1927.

July 19.

Had conference with Attorney Francis J. Heney at his office in San Francisco, spending one-half day in making the trip.

Spent two hours in conference with Mr. Lieurance during the latter part of the afternoon.

July 20.

Conferred with Mr. Lieurance and Mr. Hershey for three hours.

Started for Portland to attend hearing on Final Account of Receivers on July 25th.

July 21.

En route to Portland.

Letter received at my office from Globe Indemnity Company (Seattle agents, Sparkman & McLean Co.) asking for advice concerning Receivers' bond.

July 22.

At Portland, interviewing local counsel, Mr. Plowden Stott, and a number of attorneys.

[545]

July 23.

Spent entire day with Attorney Stott and other attorneys including Attorney Teiser, local counsel for objectors.

July 24.

Sunday. All day at Portland.

July 25.

Letter received at my office from Plowden Stott re fee for services rendered by him.

Telegram sent by me from Portland to Alex Winston, Esq., my local counsel at Spokane, suggesting that he meet me the following morning re court hearing.

Telegram received from Alex Winston, Esq., stating that he will meet me at his office tomorrow morning.

Appeared in U. S. District Court at Portland before Judge Robert S. Bean in the matter of hearing on Final Account of Receivers and their report of administration and petition for settlement thereof and fixation of fees. On behalf of certain San Francisco creditors, objections were filed by Attorney Teiser on behalf of Attorneys Joseph Kirk, Francis J. Heney and B. D. Townsend. An effort was made to proceed with the hearing but as it became evident that the objectors intended to take testimony of certain New York witnesses, the matter of the hearing of the objections was referred to the Special Master, Robert F. Maguire, Esq.

Spent rest of day interviewing attorneys and in conference with local attorney, Mr. Stott.

Left in the evening for Spokane.

July 26.

At Spokane. Met Attorney Alex Winston, my local counsel, at eight o'clock in the morning. Remained in conference with him until shortly before ten o'clock. Then attended U. S. District Court, Judge J. Stanley Webster presiding. Because of a jury trial not yet concluded, the matter of the hearing on the Final [546] Account and Report and Petition was passed over until four o'clock in the afternoon.

In the interim, we learned that Attorney Fabian Dodds, local counsel for Francis J. Heney, B. D. Townsend and Joseph Kirk, attorneys representing certain objectors, had received a copy of objections similar to those filed at San Francisco and Portland, and that he had caused them to be filed in the proceeding.

Had lengthy conference with Mr. Dodds and arranged with him to have the matter pending in the jurisdiction of Eastern Washington consolidated with the matters in the other ancillary jurisdictions, and to have all the objections subject to similar actions on the part of the U. S. District Courts at Portland and Seattle heard and determined by the U. S. District Court in and for the Northern District of California.

Stipulations were then drawn and executed; an Order prepared to be based thereon, which my local counsel and I presented to Judge Webster. His signature was obtained to an

Order transferring the matter of the hearing to the U. S. District Court in and for the Northern District of California. Immediately obtained an Order (certified copy) and mailed to my local counsel at Portland, Plowden Stott, a copy of the stipulation and certified copy of Order, suggesting that I would like to have him immediately confer with Attorney Teiser and with Judge Bean and arrange, if possible, to set aside the order of reference to Special Master Maguire and obtain an Order similar to the one obtained from Judge Webster.

Telephoned to Mr. Stott, notifying him of this action and of the fact that he would shortly receive my communication.

Telegraphed to my local counsel, Nelson R. Anderson, at Seattle, asking him to, if possible, find out what attorney would represent the San Francisco objectors and requesting that he take up with him as quickly as possible the matter of the proposed transfer and consolidation of the hearing on the Final Account and Report and Petition.

Received telegram from my office, informing me of service of copy of Notice of taking depositions at New York.

Left that night for Seattle. [547]

July 27.

Arrived at Seattle.

Spent seven hours with local counsel, Nelson

R. Anderson, going over the matter of the account, Petition and Report, and in discussion of proposed consolidation of hearings and in the matter of the Order to Show Cause proceedings still pending in the matter of the claim of C. W. Kelly of Everett, Washington.

Letter received from Plowden Stott in answer to mine of the 26th. Stating that he had received similar order from Judge Dean.

July 28.

Spent all day at Seattle in conference with Mr. Lieurance and Mr. Hershey and several attorneys.

Received letter at my office from Brown & Chamberlain of Modesto, California, asking about further dividend.

July 29.

Spent entire day in examination of papers and in conference with Mr. Lieurance and Mr. Hershey.

Telegram received from my office stating that service had been made of copy of Objections and Exceptions re allowances to Receiver and his attorney.

July 30.

Spent all day in going over Pilcher Company matters and in conference with Mr. Hershey and Mr. Lieurance.

July 31. Sunday.

Aug 1.

Called at office of Nelson R. Anderson at eight-thirty in the morning and finally concluded the arrangement [548] for dismissal of Order to Show Cause proceedings commenced on behalf of C. W. Kelly, claimant.

Conferred concerning proposed consolidation of hearings.

Got in touch with Leopold M. Stern, Esq., who was designated to represent objectors, and arranged with him for stipulation and order to be based on the lines of stipulation and order signed by Judge Webster at Spokane.

Appeared with Mr. Stern and Mr. Anderson before Judge Neterer and obtained above order.

Obtained certified copy of such order; telephoned to Portland to Mr. Stott to ascertain if Judge Bean had vacated his order previously made, etc.

Had further conferences with Attorney Anderson and in the evening left Seattle for Oakland.

Aug. 2.

En route to Oakland.

Aug. 3.

Arrived in Oakland and examined immediately the further copies of Objections sent by attorneys Kirk, Heney and Townsend to my office during my absence.

Examined Notices and Affidavits for taking of

depositions of Arthur F. Gotthold, William Frazer and Walter E. Ernst at New York on August 16th at 10 A. M.

Conferred with Mr. Lieurance concerning same and going over correspondence files for correspondence and other data which might be of use upon the taking of such depositions.

Examination of papers for use in the matter of the depositions at New York City.

Aug. 4.

Conferred for three hours with Attorney Peter J. Crosby who is to represent Mr. Lieurance and me in the matter of the hearing on the Final Account in the matter of the fixation of fees and compensation for him and me.

[549]

Received letter from Plowden Stott re statement of services rendered by him, and compensation and fee.

Wrote letter to Plowden Stott re letter of Mr. Love to William Frazer.

Aug. 5.

Spent five hours in going over and getting together data for taking of depositions at New York.

Aug. 8.

Attended U. S. District Court at San Francisco; matter continued to September 5, 1927; spent half day in San Francisco.

Aug. 9.

Spent all day in preparation for the taking of depositions at New York.

City

Left for New York/to attend taking of depositions of Walter E. Ernst, Arthur F. Gotthold and William Frazer, whose depositions are to be taken on August 16, 1927, on behalf of objectors. (NOTE: While we were attending Court in the Northwestern jurisdictions, during the month of July, the notice of the taking of these depositions was left at my office. We were not consulted concerning the time or the manner of the taking of the depositions. We were not given an opportunity to present written interrogatories. The only privilege given us was contained in the notice that we may appear in person or by attorney and interrogate the witnesses if we so desire. Before leaving I was not apprised of the reason of the taking of the depositions or of the proof expected to be obtained from the witnesses by the objectors).

Aug. 10.

En route to New York to attend taking of depositions of Walter E. Ernst, Arthur F. Gotthold and William Frazer. [550]

Aug. 11.

En route to New York.

Aug. 12.

En route to New York.

Aug. 13.

En route and arriving at New York City.

Aug. 14.

At New York City relative to taking of depositions.

Aug. 15.

At New York City relative to taking of depositions.

Aug. 16.

Attended taking of depositions of Walter E. Ernst and Arthur F. Gotthold before Wm. Polglase, 170 Broadway, New York City, and participated in the examination of these witnesses. (The witness William Frazer was not in the City. He had gone to Europe about a month before the notice given us, we were informed, and *di* not return until after the 26th of August).

Aug. 17.

Called at the office of Wm. Polglase and examined as much of the transcript of the testimony of the witnesses Walter E. Ernst and Arthur F. Gotthold as had been transcribed. Left for home.

Aug. 18.

En route from New York to Oakland. [551]

Aug. 19.

En route from New York to Oakland.

Aug. 20.

En route from New York to Oakland.

Aug. 21.

En route from New York, arriving at Oakland.

Aug. 22.

Conference with Mr. Lieurance and Mr. Hershey, lasting three hours.

Aug. 30.

Sent letter to Judge Hand of New York, relative to order made by him on July 6th in the matter of the filing of creditors claims with Referee in Bankruptcy at New York City.

Sent letter to Arthur F. Gotthold concerning same matter.

Sent letter to Walter E. Ernst concerning same matter. [552]

RECEIVER'S EXHIBIT No. 3

Consists of the statement prepared and submitted by A. F. Lieurance, concerning the services rendered by him as Receiver; and which document is as follows: [553]

GENERAL STATEMENT OF SERVICES RENDERED BY RECEIVER A. F. LIEURANCE.

INCEPTION OF RECEIVERSHIP.

On the morning of June 3, 1926, without previous notice, I received a telegram from McManus, Ernst & Ernst, Attorneys of New York, stating that I had been appointed Receiver for the R. A. Pilcher Company, Inc., by August N. Hand, Judge of the Federal Court, Southern District of New York.

This was the first notice I had had that the R. A. Pilcher Company was in financial difficulty.

R. A. PILCHER COMPANY.

The R. A. Pilcher Company, Inc., was a merchandising institution, existing under the laws of the State of Delaware. It was engaged in the business of conducting a chain of department stores, all of which were located in the States of Oregon, Washington and California, to-wit: three stores in California, located at Stockton, Turlock and Oroville; seven stores located in the following towns in Washington; Yakima, Tacoma, Bremerton, Monroe, Aberdeen, Everett and Wenatchee; six stores located in the following towns in Oregon; Klamath Falls, Eugene, Pendleton, Roseburg, Portland and Albany. These stores were classed as general merchandise stores and their stocks were made up of dry goods, shoes, clothing, ladies ready to wear, men's ready to wear, men's furnishing goods, ladies and children's furnishing goods, notions, bedding, hats, caps and other lines usually found in a department store.

OBTAINING INFORMATION RELATIVE TO THE RECEIVERSHIP.

Immediately after receiving notice of my appointment as Receiver I conferred with Mr. Edward R. Eliassen, Attorney, 1201 Central Bank Building, Oakland, relative to the duties of a Receiver and just what my accepting [554] this appointment as Receiver would mean. I was informed by Mr. Eliassen that since the suit had been brought in

New York it would first be necessary to find out from New York the purpose of the receivership and obtain, if possible, the future plans of the creditors and stockholders and in a general way learn what both the creditors and stockholders proposed to do and what procedure they would follow under the receivership.

COMMUNICATIONS.

I immediately communicated by telegram with McManus, Ernst & Ernst, Attorneys of New York, who informed me that at a creditors' meeting held in New York at a previous date, a Creditors' Committee had been appointed and that it was the intention or purpose of the creditors to give the R. A. Pilcher Company an extension of time in which to refinance the business and make some definite settlement with the creditors.

In this connection I received a telegram from Mr. Pilcher informing me that since I was known personally or by reputation to a large majority of the creditors that I was their unanimous choice as Receiver and Mr. Pilcher urged me to accept the appointment.

Further in this connection I received a telephone call from Mr. Walton N. Moore of San Francisco, who informed me that he had been in communication with some member of the newly appointed Creditors' Committee and Mr. Moore strongly urged me to accept the appointment as Receiver.

Mr. Moore further informed me that he had been elected a member of the Creditors' Committee and

that while he knew very little about the circumstances and conditions surrounding the R. A. Pilcher Company he felt that he would receive further and more enlightening information at any time and requested that I come to San Francisco to confer with him immediately in regard [555] to the procedure to be followed. I complied with this request and spent possibly an hour or an hour and a half discussing matters in connection with this business with Mr. Moore. Up to this time neither Mr. Moore nor myself had received further information from New York and it was agreed between us that I should see him at his home in Piedmont that evening after dinner to discuss the matter further, it being felt by both him and myself that either of us might, before the afternoon was gone, receive some communication from New York that would give us further information in regard to this business.

As arranged, I called upon Mr. Moore at his home in Piedmont and we discussed the business further. However, much of the evening was taken up by Mr. Moore explaining to me that the San Francisco Board of Trade is the recognized agency on the Pacific Coast for the handling of bankrupt merchandising estates, and that since in his opinion it was only a question of time until this business would have to be liquidated and a distribution of the proceeds of the sale of the assets made to the creditors, that it should be handled through the San Francisco Board of Trade. He gave as a rea-

son for this that the San Francisco Board of Trade is owned and controlled by the wholesale and manufacturing interests of San Francisco and that as a great number of its members were creditors of the R. A. Pilcher Company, it was only fair and right that their organization should handle this business. Mr. Moore stated further that they had the machinery, the personnel, the intelligence and the experience necessary to the handling of affairs of this kind and insisted that I go into camp with them, employ their Attorneys, accountants and make use of their equipment generally in the conduct of this business.

I did not accede to Mr. Moore's demands but informed him that I would think the matter over carefully and [556] give him my decision at a later date. After thinking the matter over carefully and taking into consideration the fact that I was the choice for Receiver of the creditors who attended the meeting at the inception of the receivership, I felt that it was my duty to handle this business in the manner in which I felt the best results could be obtained. I also felt that if it had been the desire of the creditors to have the San Francisco Board of Trade handle the matter they would have selected them as Receiver instead of selecting me. Then too, there were other Boards of Trade or Credit Men's Association located in other Cities, whose members were creditors and whom I felt that I would discriminate against in employing the San Francisco Board of Trade and I also felt that since it was the purpose and plan of the

stockholders, as I was advised by Mr. Pilcher, to refinance the business and make a settlement with the creditors, that the interests of both the stockholders and the creditors would best be served by my keeping the business of the receivership separate and apart and thus avoid further complications.

EMPLOYMENT OF ATTORNEY.

On the morning of June 4, 1926, I again conferred with Mr. Edward R. Eliassen and again went over with him the duties of a Receiver, the complications that might arise and how in his opinion the interests of both the creditors and stockholders could best be served. After this conference I was convinced that I would make no mistake in employing my own Attorney, establishing an office in Oakland for the purpose of carrying on the business of this receivership. Acting upon this conviction I immediately employed Mr. Edward R. Eliassen of Oakland, as Attorney for the Receivers in the Districts of California, Oregon and Washington and we immediately set about making plans for the work at hand. Mr. Eliassen assisted and [557] advised me in drafting numerous telegrams, provided me with the services of his office and stenographer and extended to me many courtesies and accommodations which were urgently needed at that time and which I highly appreciated.

ESTABLISHING OF CENTRAL OFFICE.

I immediately got in touch with the Superintendent of the Central Bank Building, 14th and Broad-

way, in the City of Oakland, and rented from him a suite of offices consisting of two small rooms located on the same floor and adjacent to the offices of Mr. Eliassen, Attorney for the Receivers. This has proven a source of convenience, as well as an instrument of economy in the conduct of the business, as it later developed, that in the handling of this business it has been necessary for me to confer with Mr. Eliassen many times daily in regard to matters pertaining to the administration of the business of the Receivers. For this office I have expended the sum of Ninety Dollars and Fifty Cents per month, which is the same rate at which the office could be obtained under a lease contract covering a period of years. I have taken no lease, but have had the use of the office on a month to month basis.

In order to keep down the expenses I equipped this office with two ordinary office tables, a typewriter desk, an ordinary filing cabinet and a few chairs. This equipment I attempted to rent, but found if the receivership lasted over a period of four or five months that I would pay out more in rental than the equipment would cost if bought outright, so I purchased this equipment and when the receivership is closed the estate will be credited with the proceeds from the sale of such equipment. Throughout the term of this receivership I have without charge, furnished my own typewriter and also my own desk, together with other incidental office equipment which I personally owned at the beginning of the receivership. For the purpose of figuring inventories [558] and the carrying on

of other work in connection with the receivership where office machinery was indicated and indispensable we have borrowed or rented such equipment at a nominal cost.

PURPOSE OF RECEIVERSHIP.

Some few days after the inception of the receivership, and after a conference with Mr. Walton N. Moore, and after the employment of Mr. Eliassen as Attorney, I received a lengthy letter from McManus, Ernst & Ernst of New York, Attorneys, who informed me in reply to my inquiry that they were Attorneys for both the complainants and the Receivers and that they had attended the meeting of the creditors held in New York prior to the inception of the receivership, and informing me that the purpose of this receivership was to conduct the business in an orderly manner under the direction of a Receiver until such time as the creditors and the stockholders could formulate some plan for the refinancing of the business and for a settlement with the creditors. They informed me further that it was the purpose of the creditors to give the Company an extension of time in which to accomplish the refinancing of the business and the making of a settlement with the creditors.

They also informed me that they had prepared and mailed to each creditor an agreement to be signed by them which would allow the Company an extension of time without interference and that during this period the business would be carried on under my direction and that I would have the

advantage of having at my disposal the support and helpful suggestions from the newly instituted Creditors' Committee.

I was further informed that Mr. A. F. Gotthold of New York had also been appointed my Co-receiver and that while control should be joint, that Mr. Gotthold would not interfere with my control in the West and would leave the direction of the business of the Receivers in the West solely to me. [559]

I was further informed that numerous suits were filed and numerous attachments being levied against the *pro*- property and that the store managers were greatly alarmed and appealing to the Pilcher Company's office in New York and also to McManus, Ernst & Ernst and the New York Receiver for aid and advice in the handling and disposition of these matters. I was instructed by McManus, Ernst & Ernst to immediately communicate with the store managers and take whatever steps were necessary to passify restless creditors and to do whatever was necessary to prevent the instituting of further suits and the filing of further attachments.

EMPLOYMENT OF ACCOUNTANTS.

Immediately after conferring with Mr. Eliassen on the morning of June 5, 1926, and after renting an office, I employed Philip A. Hershey & Company as accountants for the Receivers and instructed them to keep accurate and complete record of all transactions in connection with the business

of the stores and in the general conduct of the receivership.

Mr. Philip A. Hershey immediately took charge of the accounting and proceeded to make plans for the keeping of accurate records of all accounts in connection with the business.

After communicating with the stores and instructing them in their duties under the receivership, daily reports from the stores, giving in detail the results of their daily business, their sales, expenditures and so forth began to arrive at the office in Oakland. The accountants employed, planned and procured the necessary books and equipment for the posting and keeping of these records from day to day for compiling of statements from time to time as they were required by me in the conduct and administration of the business. This work involved the keeping of accounts and records for the sixteen stores, together with the records that were necessary to keep with reference to transactions [560] with wholesale houses and manufacturers, as well as accounts and so forth that had developed with various creditors who had filed claims and attachments and who had succeeded in tying up funds in local banks where such funds were located.

The work of the accountants involved the expenditure of a great deal of time and effort and their work has been creditably done. Throughout the first five months of the Receivership the accountants have supplied a comprehensive, detailed monthly report of all transactions in connection with the business and have from time to time sup-

plied me with additional statements and figures which were indispensable in the conduct of the business. Without these reports and without this splendid and always available service I should have been at a loss many times to know the condition of a certain store, the manager of which would want to place an order for additional merchandise, or make some expenditure, or do something in connection with the business that could not have been intelligently passed upon by me without having at hand these figures portraying the condition of that particular store. These were almost daily occurrences.

During my absence from the office at various times in the interest of the business, that is when I might have to be in court in the jurisdictions of Oregon and Washington, Mr. Hershey aided me materially in directing the activities of the store managers, my having communicated to him and he having quickly grasped the plan I had formulated for the conduct of the business and the course I proposed to pursue.

COMMUNICATED WITH AND TOOK CHARGE OF THE STORES.

After receiving information from McManus, Ernst & Ernst to the effect that I was to take charge of the stores and conduct the business of the Receivers on the Coast, I immediately communicated with the store managers, [561] notifying them that I had been appointed Receiver for the R. A. Pilcher Company and directed them to keep their stores

open, promote their sales and otherwise carry on their business as usual until such time as I could formulate plans for the continuing of the business under the receivership, at which time I would give them further instructions in this regard.

I also instructed them to remit to me daily the cash received from the sale of merchandise and also to send to me each day a detailed report showing the amount of their daily sales, their expenditures for local operating expenses, showing their bank balances and so forth.

I also informed them that the business would in the future be directed from the office established in Oakland and directed them to refrain from the placing of any orders for merchandise until they received further notice from me.

I informed them further that in the future the accounts and records of the Company would be kept in the office established in Oakland and that they should communicate with me in regard to everything pertaining to the conduct of their stores. I instructed them as to how to deal with obstreperous local creditors and how to passify them and if necessary placate creditors who threatened suit or attachment or who otherwise annoyed them with their claims against the Company.

Having known a few of these store managers personally and they all having known me personally or by reputation, I received from most all of them communications to the effect that they were happy that the business had fallen into my hands and assuring me of their support and co-operation.

ANCILLARY PROCEEDINGS.

The various conferences had with Mr. Eliassen, Attorney for the Receivers, revealed to me the fact that in order to obtain jurisdiction in the Districts of [562] California, Oregon and Washington it would be necessary to institute Ancillary proceedings in the Federal Courts of these Districts and to obtain if possible the appointment of myself and Mr. Gotthold Receivers in these various jurisdictions.

Mr. Eliassen prepared the necessary papers and together we appeared before A. F. St. Sure, Judge of the Federal Court, Northern District of California, and obtained on June 9th a Court order appointing Mr. Gotthold and myself temporary Receivers in the Northern District of California.

Immediately thereafter Mr. Eliassen and I proceeded to Portland, Oregon, where we appeared in the United States Court, instituted Ancillary proceedings and from Robert S. Bean, Judge of the Federal Court of Oregon, obtained on June 14th an order appointing Mr. Gotthold and myself Receivers in that jurisdiction.

Immediately thereafter we proceeded to Seattle, Washington, where we appeared in the United States Court, instituted Ancillary proceedings and from Jeremiah Neterer, Judge of the Federal Court, for the Western District of Washington, obtained on June 15th an order appointing Mr. Gotthold and myself temporary Receivers.

Immediately thereafter we proceeded to Spokane, Washington, instituted Ancillary proceedings

in the Federal Court and from Stanley Webster, presiding Judge of the Federal Court in the Eastern District of Washington, obtained on June 16th an order appointing Mr. Gotthold and myself temporary Receivers.

BONDS.

At the time Ancillary proceedings were instituted in the jurisdiction of California, Oregon and Washington, the bonds of the Receivers were fixed by the Courts as follows: in the District of California [563] The Receivers were required to file a bond of Ten Thousand Dollars each. Similar sums were required in the District of Oregon and the Districts of Eastern and Western Washington. These bonds were filed and are still in effect. In October, at the time the stores were sold, a considerable sum of money came into the hands of the Receivers and Judge Neterer of Seattle, Washington, imposed the filing of an additional bond by me in the sum of Eighty Thousand Dollars. This bond is also still in effect.

INTERVIEWING OF CREDITORS.

Shortly after the inception of the receivership and after notice of my appointment had been received by the creditors of the R. A. Pilcher Company, I began to receive telephone calls and personal calls from various San Francisco creditors and communications by letter and telegram from various creditors scattered throughout the United States. Some were interested to know what condition the R. A. Pilcher Company was in finan-

cially, others were interested in delivering merchandise that had been purchased by the buyers of the R. A. Pilcher Company previous to the receivership, others were interested to know what, if anything, they would get out of their claims and some were apparently just curious. This of course took up considerable of my time. However, they were creditors, their interests were material and they were entitled to any information or consideration I could give them and it was my duty to hear what they had to say, give them whatever help I could and make prompt and intelligent replies to their written communications.

While I was in Portland, Seattle and Spokane in the matter of the Ancillary proceedings, many creditors located in those Districts, having learned through their Boards of Trade, with whom I communicated and had conferences, that I was in town sought me out and kept me busy far into the night going over the situation with them and discussing the business generally. [564] While in Portland, Mr. Eliassen and I called at the office of the Credit Men's Association where we interviewed a number of creditors and discussed the condition of the business generally and where we gave them what information was then at hand regarding the receivership, the condition of the business and the general plan for carrying on of the business under the receivership as far as we had, up to that time, been able to make any plans.

At Seattle we interviewed Mr. A. V. Love, member of the Creditors' Committee and who requested

that we accompany him to the offices of the Business Men's Association, where we met a number of creditors of the R. A. Pilcher Company. We gave them the benefit of our limited knowledge of the condition of the business and after having discussed with them the condition of the business and the purpose of the receivership we received from them a vote of confidence and their hearty approval of our procedure and our plans as far as they had gone.

At Spokane we had a meeting with the Credit Men's Association and after going over the situation with them, learned that they were in accord with our procedure and plans and offered any assistance they could give in the handling of the business.

MEETING WITH THE STORE MANAGERS.

After the business in connection with the Ancillary proceedings was finished in Spokane I returned to Portland on June 17th for the purpose of holding a conference with all of the managers of the R. A. Pilcher Company's stores located in the States of Oregon and Washington. Three or four days previous to this meeting I had notified the managers of the stores in Oregon and Washington that I would be in Portland on June 17th for the purpose of conferring with them and instructed them to meet me there on the morning of that date. At about ten o'clock in the morning this meeting was called to order [565] and I immediately in-

formed the store managers of the purpose of the meeting.

PURPOSE OF THE MEETING.

This meeting was called for the purpose of instructing the store managers in their duties and the future conduct of the business under the receivership, and learning from them first hand, the condition of their stocks and the possibilities of their stores, instructing them in the keeping of their records their daily reports, advertising, placing orders for new merchandise, sales policies, banking, keeping down of their expenses, reducing their help, disposing of surplus stock, dealing with obstreperous creditors, dealing with their landlords and other matters pertaining to the business.

CONDITION OF THE STOCKS.

After consulting with the managers of each individual store I discovered that their stocks were out of balance, that they had a surplus of merchandise in some lines and that their stock of merchandise in other lines were more or less depleted. I also learned from the store managers that they were not responsible for this condition. They were unanimous in their assertion that the buyers employed in New York by the R. A. Pilcher Company had without request of the managers or even with their consent shipped to them quantities of merchandise which they had not ordered and which they could not use to advantage. In many instances this merchandise was not adapted to their particular locality and they were experiencing considerable

difficulty in disposing of it at any price, much less being able to dispose of it at a *ligament* profit.

I learned from the store managers that their stocks of ladies ready to wear consisting of coats, dresses and kindred lines were exceptionally heavy. The greater part of this stock had been bought for the Spring season just past and that they were experiencing difficulty in moving it at this time [566] of the year. This complaint was justified because the element of style and the season in which this merchandise could be sold played an important part in its value and in their ability to dispose of it.

In addition I discovered that much of the ready to wear, that is the dresses, were too elaborately styled and the price at which they should be sold was entirely too high for the majority of the stores which were located in Country towns. This condition also existed in their shoe department. However, not to the same extent as in their ready to wear department.

I learned further from the managers that some of their locations were fairly good and some were poor. I also discovered from the amount of business that some of these stores were doing, that the rooms they occupied were entirely too large for a store of this character and for the amount of business they were doing or could hope to do and as a result the fixed overhead expense of such stores as were in this predicament was so great that there was little likelihood of increasing their business sufficient to overcome this handicap and build a profitable business.

I also learned from them that their stores, in most instances, had been well received by the people in their respective communities. However, a considerable part of their merchandise was too high priced for the majority of the people to consume and that the minority who were able to buy this high priced merchandise were difficult to reach and interest and that as a result they found themselves unable to dispose of this high priced merchandise in sufficient quantities to warrant its being stocked in stores of this character. As a result this high priced merchandise was not moving and the capital thus invested was for all practical purposes frozen and materially interfered [567] with the turnover in sales the stores should have had, consequently, reducing the profit that should have been obtained on the investment.

ADVERTISING.

The question of advertising was carefully gone into and the requirements of each individual store were carefully gone into with the manager. I learned from the store managers that in most towns where the stores are located their printers had unpaid accounts against the R. A. Pilcher Company at the time the business went into the hands of the Receivers and that it was the general attitude of the proprietors of the newspapers and other advertising mediums to decline to accept further business from these stores until these past due bills were paid. I instructed the store managers to call upon their printers personally and explain to them that it was no fault of their's that these stores had gone

into the hands of Receivers, and no fault of their's that they had been caught with unpaid advertising bills, as such bills would have been paid when the services were rendered had the printer presented his bill and that these bills would never have been contracted had the store manager known in advance that the R. A. Pilcher Company was in a bad way financially. They were also informed that there was little likelihood of anything happening to prevent the orderly conduct of the business in the future.

They were further instructed to inform their printers that any bills contracted for advertising under the Receivership would be paid by the Receivers and upon my arrival home I confirmed this by letters addressed to those printers who wanted this assurance from me. As a result the printers continued to take advertising which materially assisted us in the future conduct of the business.

DAILY REPORTS.

At this meeting all store managers were instructed regarding the making out of [568] their daily reports and were instructed to use prepared daily report blanks for this purpose. They were instructed to record in the proper column on this report their daily sales and in another column prepared for the purpose to report their local expenditures which included freight, express, light, water, heat, power, stamps, drayage, cartage, disposal of waste, salaries to employees and other minor expenditures for local supplies as sweeping

compounds, brooms, repairs to lighting and plumbing equipment and so forth. Most of these items were paid for by check on their local banks where they kept a small deposit for that purpose. However, these cancelled vouchers together with their bank statements were subject to withdrawal only by myself and were collected at the general office in Oakland for the purpose of checking up the daily reports and the completing of the records and accounts of the Receivers in the office at Oakland.

The managers of all stores were further instructed to retain in their cash drawer Two Hundred Dollars as a revolving fund for change and to deposit their daily sales in their local banks to the account of R. A. Pilcher Company—A. F. Lieurance Co-Receiver, and to send each day to me at my office at Oakland a draft for the full amount of each days sale less the local daily expenditures, all of which were accounted for on the daily reports.

BUYING MERCHANDISE.

Managers were instructed that the promiscuous placing of orders for new merchandise had ceased and that in the future as it became necessary to supply new merchandise to any store that I would do the buying and that such orders would be received by me at the Oakland office in the form of a requisition and that no order for merchandise would be placed for any store without my first having gone over it and without the stamp of confirmation of the Receivers and my signature appearing thereon.

This practice was strictly adhered [569] to except in some instances where it was necessary to obtain merchandise quickly and confirmation was given by telegram. As a result of this precaution and procedure the buying of merchandise for these stores was confined to the minimum and in most instances orders were placed only for staple merchandise which kept stocks in balance and aided materially in the reducing of surplus stocks in other lines which we were exceedingly anxious to dispose of.

SALES POLICIES.

As the stocks of merchandise contained in most stores were exceptionally heavy and as these stores consisted in part of seasonable merchandise it was imperative that some drastic or effective measures be immediately adopted to promote sales so that this unseasonable merchandise might be disposed of quickly. Knowing that this is most effectively accomplished by excitement, I instructed the store managers in sale tactics, which they were to employ in the future to create the necessary excitement, enthusiasm and interest that would move this merchandise, and as a result of this effort on the part of myself and the store managers, we succeeded in converting into cash Two Hundred and Twenty-five Thousand Dollars worth of surplus stock, almost one half of which was obtained through the sale of ladies ready to wear and other seasonable goods that were depreciating in value each day as the season advanced.

EXPENSES.

After going over with the store managers the amount of rent they were paying, the amount of help they were employing and the expenses incident to the daily conduct of their business I learned that the fixed overhead of each and every store was excessive compared with the volume of business they were doing and after a careful analysis of the expenses of each and every store I discovered that the only hope of reducing these expenses [570] was in reducing the amount of help employed in the stores and the curtailing of all other expenses incident to the operation of the stores.

It was apparent that the store managers had not been in the habit of anticipating their wants or needs and using the mails three or four of five days in advance of the time they wanted certain communications to arrive at certain destinations, but to the contrary they had waited until the last minute and instead of writing were in the habit of using telegrams, which resulted in their expending considerable money in this direction. They were instructed to desist from the use of the telegraph except in cases of emergency and to carry on their correspondence by letter both with the general office in Oakland and with other people with whom they had occasion to correspond.

They were instructed to reduce their help to the minimum and as a result their monthly expenditures were reduced by some Eighteen Hundred Dollars. They were also instructed to be careful

and saving in the use of supplies and equipment and to curtail as much as possible such expenses as were not definitely fixed and over which they had control. It must of course be understood, that their store rentals, their lights, water, heat and so forth were on a fixed basis and no saving could be made in these items.

INVENTORY.

All store managers were informed that within a short time a complete physical inventory of their stock would be taken and that such inventory would have to be accurate and that they would have to make affidavit to its correctness before a Notary Public.

They were instructed upon their return home to immediately set about putting their stock in order that the [571] taking of this inventory might be facilitated and that the task might be completed within the shortest possible time. They were informed that they would receive from me inventory blanks for *for* purpose of taking this inventory and that each and every sheet would have to bear the signature of the person who made the count and who priced the merchandise. They were also instructed to take all merchandise at its original cost, regardless of its condition or the season in which it was bought. As a result of this instruction and precaution we obtained an inventory in record time and it was received at the Oakland office in such condition that the extensions and computations were made without difficulty and with dis-

patch. The inventory gave both the cost and retail prices, thus providing the means for determining the average mark up on the merchandise.

INSURANCE.

Not having received from New York any information in regard to the status of the insurance or the amount being carried by the individual stores, it was important that this matter be taken up with the store managers to ascertain from them the amount of insurance they were carrying, how long it had been in force, when it would expire and so forth. As a result of taking this matter up with the store managers it developed that the insurance covering some of the stores had been placed in New York, while the insurance covering other stores had been placed locally. Hence, the status of the insurance covering all the stores at that time could not be definitely determined. As a result all store managers were instructed to place a binder insurance policy upon the stocks of the individual stores to the amount of approximately ninety per cent of the estimated value of their respective stocks. In some instances it was necessary to place only an additional amount of insurance, while in other instances where the manager knew nothing of the condition [572] of the insurance covering that particular store, it was necessary for him to place insurance locally to the amount of approximately ninety per cent of his stock until such time as I could get together all of the insurance policies and revise the insurance covering all of the stores.

TAXES.

In conferring with the store managers on this subject I learned that taxes then due in some localities had not been paid and that the store managers had received notice that unless payment was made forthwith the account would be put in the hands of the Sheriff for collection. The store managers were instructed to send these notices to my office at Oakland, California, where they received the proper attention.

CLAIMS AND ATTACHMENTS.

Upon discussing this subject with the store managers I learned that numerous small creditors in the towns where the stores were located were becoming restless and that numerous suits and attachments had been filed or threatened. I learned that there were cases where the alterations were being made to store buildings occupied by the R. A. Pilcher Company and where the work was being done by contract for either the landlord or the R. A. Pilcher Company, that liens had been filed or were threatened and that on the whole there was quite a lot of dissatisfaction because of the report having been circulated that the R. A. Pilcher Company was in financial difficulty, and that such creditors would have *difficult* in collecting for their services. The store managers were instructed upon their return home to make it a point to interview each of these creditors personally, explain to them that the business was now in the hands of Receivers and that it was the purpose and plan of the R. A. Pilcher Com-

pany to refinance its business and if possible pay each and every creditor in full. However, in as much as the business was now already [573] in the hands of the Receivers that there was nothing to be gained by these restless creditors insisting upon an immediate settlement and that if they would be patient we would in a short time have worked out some sort of a plan whereby a settlement could be made with all creditors and in the event this could not be done that they would have equal opportunity along with all other creditors to file their claims against the estate and in the end would receive equal and fair treatment along with all other creditors. With this explanation the restless creditors were passified for the time being and as soon as possible I communicated with each of them by letter explaining the situation and as a result we received their co-operation and helpful support instead of their opposition.

MORALE AND CO-OPERATION.

Last but not least, the calling together of the store managers at Portland, Oregon, on this occasion for a conference and for a meeting to discuss in general the affairs of the R. A. Pilcher Company, was not solely for the purpose of instructing them in their duties and in the future conduct of the stores under the receivership. When they arrived in Portland and we assembled in a room in the Portland Hotel, they were a rather dejected, discouraged looking lot of men. As a matter of fact, some of them told me that they supposed that when we went into that

meeting that they were to be told that their services would no longer be needed and that it would be up to them to look for a new position.

It requires no stretching of the imagination to understand and appreciate the feelings of these men and the difficulties under which they were laboring. Some of them had just recently taken charge of their stores and had been put to considerable expenses moving and in some instances buying new furniture and other equipment for the purpose of fitting out a home, feeling that they were permanently located. Then like a thunder clap out of a [574] clear sky they receive notice that the Company is in financial difficulty and they realize their positions are in danger and that the chances are they will have to make another move and another business connection.

It is immediately apparent that under these circumstances the morale of this organization had fallen far below par. As a matter of fact, all of these men, were, at the time this meeting was called, making an effort to secure another position before this business should collapse entirely and leave them without employment. Realizing the frame of mind these men were in and appreciating to some extent their feelings and what they were contemplating, I brought up the subject of what the future had in store and what they might in the normal course of events expect. They were informed that as yet no one knew definitely and accurately the financial condition of the R. A. Pilcher Company. Neither did we know at that time whether or not the stock-

holders would be successful in their efforts to re-finance the business, nor did we know whether or not the creditors would be content to wait and work with the stockholders in reorganizing the business, or whether they would demand immediate liquidation and distribution of the proceeds of the sale of the property. It was pointed out to the store managers that there was no need for immediate action on their part in so far as securing new positions was concerned. They had cast their lot with the R. A. Pilcher Company, had made some sacrifice in order to make this connection and that if it was possible for the stockholders to refinance the business they would be in a strategic position. If on the other hand, it was found later on that the business would not be refinanced, that it would then be time for them to seek employment elsewhere. However, it was explained to them that for the present they had nothing more to lose, that they could be assured of my support and co-operation and my every effort to take care of them [575] in so far as it was possible for me to do so, and that by sticking together we might be able to accomplish a great deal and that by falling apart none of us would be able to do very much of anything. The result was that the morale of the store managers, with one exception, was restored to par and they pledged to me their loyal support and co-operation and faithfully promised to do everything they could to promote the business under my direction and see the work through to a finish.

Chain stores cannot be run without an organization, neither can chain stores be run without managers. It would have been bordering on commercial suicide to have allowed those store managers, who were familiar with the business, who knew the stocks and who knew the community in which the stores were located, to leave the employment of the Company at this critical period. After appealing to their better judgment they were prevailed upon to remain with the organization, with no advance in salary, until the stocks were reduced and the stores sold. Without exception, they were, I believe, a loyal and honorable lot of men. I also believe that they gave the best they had according to their ability. Without them and without their loyal support and co-operation I could never have accomplished the results obtained in this administration.

RETURN TO OAKLAND.

After completing the work connected with the instituting of Ancillary proceedings in the Districts of Oregon and Washington and after having conferred with the store managers at Portland, Oregon, I returned immediately to my office in Oakland and began the task of formulating definite plans for the continued operation of the stores; for the taking of a physical inventory of the stocks and for determining the amount of indebtedness against the Pilcher Company and the general condition [576] of the business.

On or about June 25th, I received a telegram from New York stating that Mr. Walter E. Ernst of Mc-

Manus, Ernst & Ernst, was on his way to the Pacific Coast and was coming to Oakland for the purpose of going over with me various matters in connection with the business of the Receivers of the R. A. Pilcher Company. Upon Mr. Ernst's arrival in Oakland, I learned that he was accompanied by Mr. Frank J. Sullivan, one of the stockholders of the R. A. Pilcher Company, who had come to interview me partly on his own account but largely on behalf of Mr. J. C. Brownstone of New York, the principal stockholder in the R. A. Pilcher Company. After going over the situation with Mr. Ernst and Mr. Sullivan I gained considerable knowledge of the condition of the business prior to the inception of the receivership and also learned from them that Mr. Pilcher was then supposed to be in Oakland to work with me in the handling of the stores and the general conduct of the business, while both he and Mr. Brownstone were trying to refinance the business and devise some plan whereby they could make some satisfactory settlement with the creditors. As a matter of fact, both Mr. Ernst and Mr. Sullivan were surprised that Mr. Pilcher had not arrived in Oakland some days prior to their arrival. However, while Mr. Ernst and Mr. Sullivan were here Mr. Pilcher arrived and together we had numerous long conferences regarding the condition of the business and what steps to take in order to carry out the plan as outlined and agreed upon at the Creditors' meeting just prior to the inception of the receivership. Mr. Pilcher informed us that he was making a strenuous effort to obtain funds

with which to refinance the business. However, up to that time he had met with no success and we all felt that there was little likelihood of his being able to raise the necessary funds.

While Mr. Ernst was here it was agreed and [577] understood that Mr. Gotthold, the Receiver in New York, would look after the business in that jurisdiction and that the sole handling of the business of the Receivers in the jurisdictions of California, Oregon and Washington would be left entirely to me. Mr. Ernst stated that when he left New York it was understood that a report was to be made to the Court as quickly as possible and that in order to make such a report it would be necessary to know definitely the aggregate amount of the assets located in Oregon, Washington and California, which consisted largely of stocks of merchandise together with what cash had been accumulated from the sale of merchandise. For the purpose of obtaining this information the work of taking the inventory, as well as its extension and computation, was carried on both day and night in the stores and in the office here in Oakland for the purpose of completing it as quickly as possible so that the information to be obtained might be incorporated in the report to be made to the various Courts. Mr. Ernst was here some five or six days and during that time we were in daily conference and at the completion of the inventory a telegram containing the information necessary to the making of a report for presentation to the Court, was drafted and sent to the office of McManus, Ernst &

Ernst in New York. This telegram contained information regarding the amount of the assets, also information pertaining to the condition and possibilities of the business, all of which was based upon the meager knowledge we had been able to gain of the business up to that time.

Upon communicating this information to New York it was decided that the receivership should be made permanent. This step was first taken in New York and immediately thereafter Mr. Eliassen and I appeared before the Courts in the Ancillary jurisdictions and succeeded in having the receivership made permanent in all jurisdictions. [578]

SUITS AND ATTACHMENTS.

Prior to the inception of the receivership suits and attachments had been filed against the R. A. Pilcher Company in the District of California and as a result of these suits, cash funds belonging to the Company had been tied up in the banks at Stockton and Turlock, California. These creditors having been enjoined by Court order from further prosecuting their suits were amenable to reason and suggestion and as a result I was, through my Attorney, Mr. Eliassen, able to make settlements with them on a satisfactory basis.

Following the making of the receivership permanent and following completion of the plans for the conducting of the stores and for the future handling of the general business of the receivership, I gave my time and attention to the merchandising of the stores and to the task of passifying creditors, to the

buying of merchandise for the purpose of replenishing depleted stocks in the stores, going over the inventories, analyzing store reports, and instructing the store managers in the daily conduct of the business.

GENERAL INVENTORIES.

In taking the inventories of the stores, all merchandise contained therein was listed in the inventories at cost and the amount of merchandise found to be on hand was \$599,717.72. This figure, however, is misleading as to the actual value as there was contained in these stores approximately \$100,000.00 ladies ready to wear and kindred lines, the value of which was materially affected by the element of style and the season in which this merchandise could be sold, the ready to wear having been bought for the Spring season just past. In addition there was approximately \$10,000.00 worth of cheap jewelry which was inventoried at cost, the value of which was very questionable. In addition the stocks contained approximately \$20,000.00 worth of men's overcoats, which were purchased as a job lot and [579] which could not be disposed of to advantage at this time of the year. Hence, the purchase price was an extremely high figure at which to take these coats into an inventory to determine value. In taking these inventories, both the cost price of the merchandise and the price at which the merchandise was marked to retail were listed on the inventories and the quantities contained in the inventories were extended and

computed at both the cost price and the retail price, thus providing the means to determine the average mark up or gross profit the stores were obtaining on their retail sales. This information was valuable and indispensable in determining what might be expected of the stores in the future and whether or not they could in the future be operated at a fair profit.

After the inventory of each individual store had been analyzed and the aggregate amount of assets known, I was in a position to make a statement or give an opinion as to the future possibilities of the business.

Mr. Pilcher remained in Oakland only a short time. However, I heard from him occasionally and on these occasions gave him what information I could regarding the stock and the possibilities of the stores that he might have this information to use in making an effort to raise money to refinance and repossess the stores. I also communicated with Mr. Brownstone in this regard, both by letter and by telegram and also from time to time communicated such information as I had gained and such conclusions as I had arrived at to McManus, Ernst & Ernst and to my Co-receiver, Mr. A. F. Gotthold. This work was necessary and of much importance, as it was the plan, as I was informed, between the stockholders and the creditors, that the business be run for a period of time to determine its possibilities and give the stockholders an opportunity to familiarize themselves with the condition of the business and its possibilities, all of

which would aid them in refinancing and making a satisfactory settlement with the creditors. [580]

VISIT TO THE STORES.

After having completed plans for the running of the stores, and after having supplied the necessary merchandise and having attended to other details in connection with the business, I made a trip through California, Oregon and Washington, for the purpose of visiting each and every store. Up to this time, my time had been taken up both night and day in the performance of my duties in connection with the business, and this was the first opportunity I had to get away long enough to visit each of the stores and see for myself just what the general situation was in each of the towns where the stores were located. While visiting these stores I went through their stocks carefully, making an estimated inventory of both the stocks and the fixtures, sizing up the location, the personnel of the stores, examining their expense accounts, instructing the manager further in the carrying on of the business and making changes in their help and attending to other necessary details in connection with the business. These stores were scattered over Northern California, Oregon and Eastern and Western Washington. As they were so widely distributed over this vast territory, it required considerable time to visit each one of them and to do the amount of work necessary to be done in each in order to familiarize myself with the stock and the general conditions surrounding the stores and the numerous details involved in this work.

This visit to the stores was absolutely necessary as it gave me a much better working knowledge of the stores, gave me a better line on the managers and enabled me to carry on my work in directing their activities to a much better advantage. Later on the information gained by this visit to the stores was of considerable value as I was in position to give prospective purchasers accurate, authentic and comprehensive information that I could not have given had I had made this personal visit to the stores. This was reflected in the price obtained for the stores when they were [581] finally sold.

Having made this visit to each store I was familiar with the location, the general appearance of the store, the stock, and was thus able to buy stock more intelligently and keep the stores in a more presentable and up to date condition, while they were being inspected by prospective buyers.

BULLETINS.

Because of the stores being so widely separated and scattered over such a vast territory, it was of course impossible for me to come in contact with them frequently or come in contact with the store managers. Hence, it was necessary to keep in daily touch with them by correspondence. In this connection, bulletins were issued from time to time, directing the store managers in their duties in regard to the conduct of the business. In addition to this, I was in daily communication with the store managers by letter and sometimes by telegram or telephone. Through these instruments I

maintained contact and succeeded in carrying on the business satisfactorily.

INTERVIEWING MR. PILCHER AND MR. BROWNSTONE.

At the request of Mr. J. C. Brownstone, principal stockholder of the R. A. Pilcher Company, I met him by appointment in Yellowstone Park, Wyoming, the latter part of July, 1926, for the purpose of going over with him the condition of the stocks, the future possibilities of the stores and the refinancing of the business. I spent two days with Mr. Brownstone, all of which time was taken up in discussing the business. After informing Mr. Brownstone regarding the condition of the stocks and after going over the possibilities of the stores with him, I gathered from his conversation and his general attitude that he would not be interested in helping to refinance the business under its former management and as he did not have anyone in mind whom he felt could manage the business successfully, he felt it would be a waste of both effort and money for the original stockholders to try and raise sufficient [582] funds to refinance and repossess the stores and make a settlement with the creditors. As a matter of fact, since the creditors numbered six hundred and forty-seven, there was little likelihood that they could all be prevailed upon to come into a plan that would facilitate the working out of the refinancing and continuing of the stores.

After leaving Mr. Brownstone, I returned to Oregon, where I met Mr. Pilcher by appointment at the Pilcher Company's store in Albany. I

learned from Mr. Pilcher that he had been unsuccessful in his efforts to raise funds for the refinancing of the business. However, he told me that he had interested a number of people and that they were seriously considering letting him have the necessary money with which to repossess the stores. At this conference I informed Mr. Pilcher that the stores had been running under the direction of the Receivers for a period of two months and that there was no possibility of their working out of their present predicament unless some satisfactory arrangement could be made with the creditors and additional money raised with which to refinance the stores. I also informed Mr. Pilcher that since he was the man at the head of this business it was up to him to make overtures to the creditors and to perfect plans for the putting the business in such condition as would warrant the retirement of the Receivers and the future carrying on of the business under the direction of the Company.

Mr. Pilcher insisted that he felt sure that he would be successful in raising the necessary funds with which to make settlement with the creditors and repossess the business and requested that before I did anything toward disposing of the property, that he be given some more time in which to complete his present plans and raise the necessary money. I informed Mr. Pilcher regarding the condition of the stocks and the possibilities of the stores as I saw them and told him that I would be willing to carry on the [583] business indefinitely providing he was making any definite

progress toward the refinancing and repossessing of the business. At this time I told Mr. Pilcher that I would carry on the business under the receivership for two or three weeks, at the end of which time, he would have to have the money with which to refinance the business and would have then to begin negotiations with the creditors, otherwise I would feel it incumbent upon me, in the interests of the creditors and the stockholders as well, to apply to the Courts for an order to sell the property.

On or about October 1st, I got in touch with Mr. Pilcher, succeeded in getting him into my office in Oakland, where I told him plainly that he had three months in which to refinance and repossess the business and up to this time he had met with no success and after learning from him some of the sources from which he hoped to secure these funds, I was convinced that it was only a waste of time to wait any longer.

Immediately after this interview with Mr. Pilcher I instructed Mr. Eliassen to prepare the necessary papers for the obtaining of an order from the Courts permitting me to sell the property. These orders were obtained immediately and notice of sale was published in various newspapers and Trade Journals throughout the Country and as soon thereafter as the conditions would permit, the stores were sold and delivered, all of which was consummated between October 25th and November 3rd.

SELLING THE PROPERTY.

The selling of sixteen individual stores scattered through three States, may at first thought, seem a simple problem. However, the performing of this task is a big undertaking especially when negotiations with prospective buyers must of necessity be carried on in the main by correspondence. In order to carry on this work effectively and obtain satisfactory results it was necessary to keep these stores in operation throughout the time the advertisement of sale was in [584] effect and prospective purchasers were looking over the property. Hence, it was necessary to devise some plan whereby a definite date of sale could be fixed so that a sale could be made as of this date and this plan also had to provide for the continued operation of the stores. Had the stores been closed on October 1st, at the time they were advertised for sale, and only a keeper placed in charge, they would not have presented the appearance of going business and would not have enlisted the interest or created the favorable impression necessary to command the splendid prices finally obtained from the purchasers.

In order to carry out this work successfully I composed a letter of information dealing with the stores both individually and collectively and this letter of information was supplied to all prospective purchasers and a copy was mailed to many merchants throughout the Country, who made no inquiry but who were in the merchandising business and whom we felt might be interested in ob-

taining one or more of the stores. It is sufficient to say, that every effort was made to interest as many buyers as possible and a great deal of time and effort was given to their personal inquiries, verbally where personal contact could be had, and by letter where personal contact was impossible. Each prospective buyer was supplied with all the information I could possibly give him. A copy of this letter to the prospective buyers is hereto attached and is self-explanatory.

The selling of these stores, the interviewing of prospective buyers, communicating with prospective buyers by letter and by telegram, consumed as much time and required as much attention and close application as did the running of the stores and since the businesses were still being conducted during the time the sales were being made the work was doubled and I found myself engrossed in this business to the extent that I was busy from early in the morning until late at night and also on most Sundays and [585] holidays. It is impossible to ever be free from work of this kind if it is taken seriously.

When these negotiations were completed, and confirmation of the sales was obtained from the Courts, and delivery made to the purchasers, and final settlement made with the purchasers, the stores had then been in operation from June 3rd to November 3rd, a period of five months.

RESULT OF THE SALE OF THE STORES.

As a result of the sale of the stores \$257,600.00

was realized. Prior to the consummation of these sales an effort had been made in New York to dispose of these stores and bids had been received there by McManus, Ernst & Ernst and my Co-Receiver, A. F. Gotthold. During the time the sale was in progress I was in constant telegraphic communication with these people and learned from them that the best offer they had received was \$325,000.00 for all of the assets of the R. A. Pilcher Company, including the sixteen stores and also including the cash on hand amounting to approximately \$228,478.69, which had been obtained by sales of merchandise over the counter from June 3rd to October 1st. The total amount received for the stores was \$257,600.00, to which may be added the cash on hand, thus making a total of \$486,078.69 received for the assets in the jurisdictions of California, Oregon and Washington. Thus, we received approximately \$137,625.19 more than the best price obtainable in New York.

During the time the stores were being advertised for sale, that is during the months of October and November, I was interviewed by dozens of prospective purchasers in Oakland, Portland and Seattle and communicated by letter or telegram with dozens of people who were interested and whom I never saw. Many of these prospective purchasers who were interested in acquiring various stores, filed their bids with me together with their deposits, the aggregate of which amounted to \$87,713.85. Thus I was forced to handle and be re-

sponsible for funds far in excess of those involved [586] in the ordinary conduct of the business.

AMOUNT OF FUNDS HANDLED.

During the administration, sales aggregating \$499,700.00 were made in the stores over the counter during the receivership. To this may be added the sale of the stores aggregating \$257,600.00, making total sales aggregating \$756,863.28. \$87,713.85 deposited with bids was returned to unsuccessful bidders. This amount I had to be responsible for while it was in my possession.

PURCHASERS OF THE STORES.

The stores were sold as follows:

1. To J. S. Waugh of Aberdeen, Washington, the stores at Bremerton, Monroe, Aberdeen, Everett and Tacoma, Washington, for \$ 90,000.00
2. To Harrison's Inc. of Wenatchee, Washington, the store at Wenatchee, for 13,000.00
3. To Phillip A. Ditter of Yakima, Washington, the store at Yakima, for 16,000.00
4. To Tanhauser Hat Company of Portland, Oregon, the stores at Roseburg, Portland, Albany, Klamath Falls, and Eugene, Oregon, for 85,600.00
5. To Liberman & Rosencrantz of San Francisco, the store at Pendleton, Oregon, for 12,000.00

6. To A. L. May, of San Francisco, the stores at Turlock, Stockton and Oroville, California, for	41,000.00
	<hr/>
	\$257,600.00

CLAIMS.

After the work in connection with the sale of the stores was completed I devoted my time to the claims that had been filed against the estate. Upon investigation, I found that only a part of the claims against the estate had been filed with me, the remainder having been sent to New York. I also learned that many of the claims in the District of California had been filed with the San Francisco Board of Trade and that they, instead of filing these claims with me in California had sent them to the Receiver in New York. This caused delay and some confusion.

After going thoroughly into the matter of the [587] claims, I discovered it would be very difficult to coordinate the business of the Receivers, with part of the claims in New York and part of them in my office in Oakland. Then too, the original books of the Company were still in New York and we had here no means of checking the claims to determine their correctness. I had made numerous attempts to get from my Co-Receiver in New York a statement showing accurately the amount of indebtedness, as shown by the books of the Company, and other information necessary to the handling of the claims.

Being unsuccessful in obtaining this information and realizing that time was being lost and that further complications would soon arise as a result of these records being scattered, I found it necessary to send Mr. Phillip A. Hershey, Accountant for the Receivers, to New York to make an audit of the accounts as shown by the books of the R. A. Pilcher Company and obtain other necessary information in connection with the verifying of the claims that had been filed and were still to be filed against the estate. Upon Mr. Hershey's arrival in New York, he found that comparatively nothing had been done toward an audit of the books and accounts of the Company and it required approximately two weeks for him, working day and night, to compile an accurate and authentic statement of the various accounts, as shown by the books of the Company.

After much communication by telegram and by correspondence, I arrived at a definite understanding with the Attorneys and Receiver in New York, and they released to Mr. Hershey the claims that had been filed with them. These claims together with a statement of the indebtedness of the Company were brought by Mr. Hershey to Oakland, where all of the claims were checked against the amounts shown on the books of the R. A. Pilcher Company. The claims were all checked carefully and where discrepancies were found [588] the matter of adjustments were taken up with the creditors and corrections made. The number of claims

filed aggregated six hundred and forty-seven, while the amount of such claims aggregated \$747,000.00.

In going over the claims, errors were discovered and many of the amounts did not correspond with the books of the Company. Many of these adjustments were made amicably by correspondence, while others were settled before a Master in Chancery. Thus the aggregate of the claims was reduced to approximately \$728,000.00.

The work of auditing and adjusting these claims was consummated as quickly as possible and early in December an order was obtained from the Courts permitting the payment of a dividend of forty per cent to all creditors, whose claims had been allowed and were in regular order. During the working up of the claims preparatory to paying the first dividend, we were engaged in thrasing out in the Court those claims which had to go before a Master in the District of California, which were five in number, and I was, through Mr. Eliassen, in constant communication with Attorneys and claimants in Oregon, where numerous claims were involved. When the claims that were in dispute had been finally acted upon the dividends were paid thereon according to the order of the Courts and early in 1927 a second dividend of ten per cent was paid to all creditors.

On or about December 6th, at the time we appeared before the Courts in the various jurisdictions to obtain orders to pay the first dividend, Mr. Eliassen and myself made application to the Courts for allowances on account for services ren-

dered. However, before doing this, we received word from McManus, Ernst & Ernst of New York stating that they, together with Mr. Gotthold, Receiver in New York, were making application there for allowances on account and asking information as to how much Mr. Eliassen and myself [589] would ask the Courts to award to us in the Ancillary jurisdictions as a payment on account.

While the correspondence in regard to these payments on account was going on between New York and Oakland, Mr. Eliassen and I, by appointment, interviewed Mr. Walton N. Moore and Mr. Joseph Kirk at the office of Mr. Kirk in the Board of Trade Building, San Francisco, at which interview the question of allowances on account was the chief topic of discussion. We informed Mr. Moore and Mr. Kirk that we proposed to ask the Court to make an allowance on account. However, we told them that we would not set an amount, but would leave the amount to be allowed, to the discretion of the Courts and whatever to the Courts seemed fair and equitable would be satisfactory to us.

After the Courts in the various jurisdictions had made the allowances to Mr. Eliassen and myself, I notified Mr. Walton N. Moore by wire of the result as I had agreed to do, the details of which are covered by telegrams and correspondence now in my possession. Mr. Moore and Mr. Kirk, after having known that we were going to ask for allowances on account and after agreeing that it was fair and equitable to allow the Courts to fix the allowances, were dissatisfied with the amounts allowed

and demanded that an adjustment be made. As a result of their action in this matter the closing of the receivership has been delayed and Mr. Eliassen and I have been put to a great deal of trouble and inconvenience as a result of the attitude of Mr. Moore and Mr. Kirk, who have employed attorneys to contest the matter of the allowances made to Mr. Eliassen and myself. Had it not been for Mr. Moore and Mr. Kirk the receivership would have been closed early in 1927.

SUMMARY.

It is impossible to set down here or make clear and comprehensive the tremendous amount of effort, energy, time, work [590] and close application put into this business during the time the stores were in operation and during the time the claims were being adjusted and settlements made with the creditors. However, some idea of the task may be gained from the fact that the amount of funds passing through my hands during the course of the receivership aggregated approximately One Million Dollars. The number of creditors aggregated six hundred and forty-seven, and the amount of their claims when finally adjusted, aggregated \$728,000.00.

It may also be pointed out, that in addition to the taking of the inventories, directing the *activities* of the stores, buying merchandise, dealing with obstreperous creditors, conferring with the stockholders, conferring with my Attorney and with other Attorneys, conferring with the Accountants

for the Receivers and directing their *activities*, there were hundreds of details which evolved upon me that cannot be recalled now. However, it is sufficient to say, from that from the inception of the receivership the greater part of the day time was taken up in conference with those just referred to and with dozens of people who called upon me daily to learn something of the condition of the business and its future. Many of these callers were creditors or representatives of creditors, while some were prospective purchasers, in the event the property was to be sold, and some were of course apparently just curious. In addition to this, correspondence from among the six hundred and forty-seven creditors poured into my office and as both these callers and creditors were vitally interested and were entitled to information, it was incumbent upon me to confer with them personally and make replies to their written inquiries. All of this consumed the greater part of each day, thus necessitating my going over store reports, making plans for the direction of the business, and otherwise, making plans, calculations and analysis of the condition of the stores at night. [591]

During the fifteen months this receivership has been in effect, neither the objectors nor anyone else has ever been in my office, or in the office of the accountants to examine the report, or to confer, either with myself or the accountants or Mr. Eliassen, in regard to the condition of the estate, the results obtained, the amount of work done, or for the purpose of obtaining any other information in con-

nection with the receivership. The books of the Receivers, as well as the final account have at all times been open and available to anyone who would have cared to have taken the time or the interest to examine them. The accountants, the Attorney for the Receivers and myself have at all times been available and would have been glad at any time to have gone over, with anyone interested, the books and accounts of the Receivers and would have been glad to have discussed with them the amount of work done and the results obtained.

During my trips to the Northwest, practically all of my evenings were given to various creditors in connection with the business, or to prospective buyers in connection with the sale of the property. It is impossible for me to state here the number of nights devoted exclusively to this business. However, it may be said that I have given practically all of my time to this work, to the exclusion of my personal affairs, and it is a fact that where all of the duties connected with the operation of sixteen stores to which is added the duties of a Receiver for those stores, constitutes a task involving so much details and so much work that one is never free from it either day or night. [592]

RECEIVER'S EXHIBIT No. 4.

Consists of the statement prepared and submitted by Phillip A. Hershey, concerning the services rendered by him as an accountant for the Receivers; and which document is as follows: [593]

(Title of Case; Northern District of California.)

To the Honorable Judges of the United States District Court, Northern District of California:

The petition of Phillip A. Hershey respectively shows that he is the sole proprietor of the firm of Phillip A. Hershey & Co., Public Accountants, Central Bank Building, Oakland, California;

EMPLOYMENT.

That upon the request and engagement of A. F. Lieurance, Co-Receiver of the R. A. Pilcher Co., and under an order signed and dated August 9, 1926, by A. F. St. Sure of the United States District Court for the Northern District of California, and under an order signed and dated July 26, 1926, by Robert S. Bean of the United States District Court for the District of Oregon, and under an order signed and dated July 28, 1926, by J. Stanley Webster, of the United States District Court for the Eastern District of Washington, he and his assistants prepared and installed and kept proper accounting records for the administration of the administration of the receivership, and performed such other services as were required by the Receivers in Equity in connection with the administration of the estate. [594]

INSTALLATION
OF ACCOUNTING
SYSTEM.

That the following is a summary of the services performed in connection with the administration and accounting of the Receivers in Equity, Arthur F. Gotthold and A. F. Lieurance between the dates

of June 3, 1926, and April 30, 1927, a period of ten months and twenty-eight days.

CONDITION OF BOOKS AND RECORDS OF THE R. A. PILCHER CO., INC.

The condition of the books and records of the R. A. Pilcher Co., Inc., as of June 3, 1926, the date of the appointment of the Receivers, was, as we were informed and as we later found to be, incomplete, entries having lapsed with the end of February, 1926, approximately three months prior to the appointment of the Receivers. As these records were in New York City and of little value to the receivership, and upon instruction of Mr. A. F. Lieurance, Co-Receiver, proper books were opened which would reflect the transaction of the business daily. These books were as follows, journals in which were recorded sales, cash received, checks drawn, bank deposits, petty cash, expenditures, merchandise purchases, merchandise transfers and journal entries. There was also maintained a general ledger for each individual store. This task was amplified by reason of the fact that there were sixteen stores and a general office operating in five districts of the United States Courts. A separate set of books was opened for each store and for the general office. In other that jurisdictional rights and equities might not be disturbed and in conformity with proper practice, a system of accounting was installed which not only enabled the Receivers to maintain jurisdictional integrity but which also furnished them with operating reports of each of

the various units, scattered from California to Washington.

CORRESPONDENCE WITH STORES REGARDING BANK AND CASH BALANCE.

Due to the fact that complete reports, data and information were not available in Oakland, California, and could not be secured from New York, it was necessary to correspond with the stores referred to and secure such information, etc. as was required and to prepare from such information entries to open the books of the Receivers. In the course of this work the bank balances maintained by [595] each of the sixteen stores of the defendant were reconciled as of June 3, 1926, as was the Cash Balance on Hand as reported by the stores;

DAILY STORE REPORTS.

The stores reported their transactions daily, such reports showing previous balance, sales, cash paid out, amounts remitted to Receiver A. F. Lieurance, in Oakland, California, etc. Each of these reports was audited immediately upon its receipt in Oakland and all errors or discrepancies which appeared were taken up with Mr. Lieurance and letters were written at once that such errors or discrepancies might be corrected or supplied while the transactions were fresh in the minds of the store managers. Numerous errors did appear and were promptly corrected.

After audit the information contained in the re-

ports was entered in the proper place in the books of account.

INVENTORY.

On June 21, 1926, a complete physical inventory of all merchandise was taken concurrently in all sixteen stores. The inventory sheets were forwarded by express to Oakland, California, where the extensions were made, verified and totaled by myself or under my supervision. At the time this work was in process there were many urgent demands made upon me to hasten this phase of the work which was at that time being completed as expeditiously as possible under ordinary circumstances. It was, therefore, necessary for me and my assistants to remain engaged upon this work for many hours each day until the inventory was completed, a period of approximately eight days. In connection with the computation and verification of the inventory and to assist in its rapid conclusion, I was able to secure the use of fifteen calculating machines at a nominal rental to the Receivership. The inventory as finally computed was \$599,717.72;

PURCHASE OF MERCHANDISE AND PURCHASE AUDIT.

During the course of the receivership it was necessary for the Receivers to purchase merchandise. These purchases were largely confined to fill-in orders which caused a large number of purchase orders to be issued and a correspondingly large number of invoices to be received. Accurate record of

all purchase orders issued, each bearing the authorization of Receiver Lieurance, was maintained. The receipt of the merchandise covered in the purchase order was checked by the report of each store manager of merchandise [596] received by him. This was in turn checked with duplicate invoices mailed directly to Oakland. All shortages and damages were deducted before invoices were paid. Prior to payment each invoice was audited, the extensions checked, the addition verified and the discount computed and deducted. During the course of the receivership all discounts available were taken and in total amounted to \$2,654.34. Merchandise in the amount of \$98,446.58 was purchased and paid for.

MERCHANDISE TRANSFERS.

From information disclosed by a detailed analysis of the inventory made by myself and from personal contact with the store managers made by Receiver Lieurance, it was found to be advisable to transfer merchandise, unsalable in one locality to another where the prospects of sale were greater. All such transfers were audited. Extensions checked, additions verified and proper entry made upon the books of account.

RECONCILEMENT OF BANK ACCOUNTS.

At the close of each month the seventeen bank accounts maintained by the Receivers in the Western Jurisdictions were reconciled with the books of account. These bank accounts were maintained in such fashion that the Receivers would be credited

with the largest amount of interest possible. The interest received on bank balances to the time of the filing of the final account is the sum of \$3,539.-66.

AUDIT OF DISBURSEMENTS.

With the exception of few minor local operating expenses, such as water, heat, light, etc., incurred by local store managers, all expense disbursements were made by check. Vouchers supporting all disbursements were audited daily, and reported in the proper books of account.

DAILY STATEMENTS.

Daily statements were prepared under instructions of Receiver Lieurance showing total sales for the day, sales to date, store expenses paid in cash, cash remitted to Oakland, California, merchandise invoices and expense vouchers paid and those not yet due and cash remaining on hand. These reports were made for each of the sixteen stores and a consolidated report for the total.

MONTHLY REPORTS.

In addition to daily statements a complete report was prepared at the close of each month showing the following [597] Receivers Cash Report, Consolidated Trial Balance, Schedule of Oakland Office Expenses, Consolidated Operating Statement with percentages and as an individual operating statement for each store with percentage.

INSURANCE.

Insurance policies were checked and insurance in

force was increased or decreased as the inventory reflected the effect of sales, purchases and transfers.

DAILY CONFERENCE REGARDING SALE OF STORES.

After the stores were advertised for sale and up until the confirmation of sales I was called into daily conferences with Receiver Lieurance, prospective purchasers and Attorney Edw. R. Eliassen respecting the previous sales of the various stores, the approximate inventory and the fixed and variable expenses of each of the units.

DETAILED SETTLEMENT STATEMENT FOR PURCHASERS OF STORES.

The stores were all sold as going concernings. It was, therefore, necessary to prepare a detailed settlement statement for each of the various purchasers. The preparation of these statements and their explanatory remarks together with correspondence with the purchasers was an exacting and arduous labor.

Insurance and taxes were pro-rated, expenses were calculated to the date of sale and an accounting made which was in all cases satisfactory to both the Receivers and the purchasers.

FILING OF CLAIMS.

Pursuant to published and mailed notices creditors had been filing claims with Receiver Lieurance in Oakland, California, and with Receiver Gotthold in New York City. As these claims were received in Oakland they were tabulated and filed.

Upon advices received from New York it was found that some claims had been filed both in New York and California. That there might be no confusion or duplication in the tabulation of the claims and in order that their total amount could be determined in as short a time as possible, I did, under instructions of Receiver Lieurance and acting under an order signed and dated October 25, 1926, by A. F. St. Sure of the United States District Court for the Northern District of California, and an order signed and dated October 27, 1926, by Robert S. [598] Bean of the United States District Court for the District of Oregon, and an order signed and dated October 29, 1926, by J. Stanley Webster of the United States District Court for the Eastern District of Washington, leave Oakland, California, November 10, 1926, for New York City

TRIP TO NEW
YORK CITY.

where I remained until all proofs of claims then filed had been checked against the books of the R. A. Pilcher Co., Inc. I prepared a schedule of the liabilities showing the ledger balances prior to adjustment, the necessary adjustments, the adjusted ledger balances, the claim filed, the adjustments

VERIFICATION
OF CLAIMS.

thereto and the claim as finally allowed. In connection with the checking and verifying of the claims as filed with the books of account, it was necessary to check all items as shown on the proof of claim, with all items as shown by the ledger account on the books of the corporation, which had been posted from February 28 to June 3, 1926, the

date of the inception of the receivership. During the course of this particular work it was necessary to correspond at length with Receiver Lieurance, by letter, wire and telephone.

ATTENDANCE AT NEW YORK CREDITORS MEETING.

While in New York I attended at the instructions of Receiver Lieurance, a meeting of the New York Creditors Committee and reported, on behalf of Receiver Lieurance, the condition of the receivership. I also worked with a representative of the New York Credit Mens Clearing Bureau, late into the night mailing notices to creditors who had not filed proofs of claims so that they might participate in the first dividend to then be paid. The schedules above referred to were finally completed and I returned to Oakland, California, December 18, 1926, having been absent from my office on business connected with the receivership a period of thirty-eight days.

SCHEDULE OF LIABILITIES.

Upon my return to Oakland I and my assistants under Receiver Lieurance's instructions, began the preparation of a final schedule of the liabilities of the defendant company as adjusted and the claims filed to date. It was found that many creditors whose claims aggregated seventy-five thousand dollars, had failed [599] to file proofs of claim. The creditors were corresponded with by me under the direction of Mr. Lieurance and urged to file a claim or waive their rights.

PAYMENT OF FIRST DIVIDEND.

Upon instructions of Mr. Lieurance, schedules for the payment of the first dividend were prepared, the amounts computed and balanced and the checks written, whereupon they were delivered to Receiver Lieurance for his examination and approval.

NUMBER OF CREDITORS ACCOUNTS AND CLAIMS.

There were six hundred and eighty-seven creditors accounts appearing upon the books of the defendant company, totaling \$690,338.44 prior to adjustment, after adjustments of \$44,751.30 these accounts were six hundred and eighty-seven in number totaling \$735,089.04. There were six hundred and forty-seven claims allowed; nine preferred, totaling \$5,816.34 and six hundred and thirty-eight general, totaling \$718,794.12, a grand total of \$724,610.46. Each of these claims were personally examined by me together with Receiver A. F. Lieurance.

TESTIMONY AT MASTER'S HEARINGS.

Under instructions of Receiver A. F. Lieurance I attended and gave testimony at hearings held before the Master appointed to hear disputed claims filed with the Receivers and upon the request of Receiver A. F. Lieurance prepared information relative to disputed claims which were heard before a Master in other jurisdictions.

EXAMINATION OF PORTLAND, ORE. AND BREMERTON, WASH., STORES.

Under instructions *or* Receiver Lieurance I left

Oakland, California, September 17, 1926, for Portland, Oregon, and Bremerton, Washington, for the purpose of checking the cash accounts at these stores and to check up the stores at Everett and Monroe, Washington. As a result of an examination of the cash account at Portland, Oregon, I secured the payment to the Receivers of an amount in excess of \$600.00 as found to be carried as I. O. U. slips in the cash account. This condition had existed prior to the inception of the receivership. Conditions in this store were found to be such that it was necessary to discharge the manager and two other employees of this store, which situation I immediately reported by wire to Receiver A. F. Lieurance and was by him instructed to select and [600] employ a manager. I selected this manager and instructed him in his duties. At Bremerton, Washington, conditions were found which justified the discharge of two of the employees, such conditions being immediately reported by wire to Receiver Lieurance who instructed me to discharge these employees. I also visited other stores of the defendant company while in the northwest. After completing this work I returned to Oakland, California, September 26, 1926, having been absent from my office on business of the receivership for a period of ten days.

PREPARATION OF FINAL ACCOUNT.

Under instructions of Receiver Lieurance I and my assistants prepared a detailed final account of the Receivers for each jurisdiction. Each of these

reports contain six hundred and five pages and is an itemization of every transaction of the Receivers in all jurisdictions. Ten copies of this report were made involving the handling and arranging of six thousand and fifty pages. This report was made up from the daily records kept from the beginning of my employment to the date of the filing of the final account. Due to the nature of this receivership and the tremendous number of items handled and in the preparation of this final account, it was required that I hold myself in readiness at all times to respond to the call of Receiver Lieurance and Attorney Eliassen and that I did so at all time subordinating other work to this service.

PAYMENT OF SECOND DIVIDEND.

When the second dividend was declared I and my assistants, acting under instructions *or* Receiver Lieurance, prepared a schedule for payment, computed the amounts due each creditor, prepared the checks for signature and delivered same to Receiver A. F. Lieurance.

CORRESPONDENCE, WIRES, ETC. HANDLED.

During the course of this receivership I have been absent from my office and the City of Oakland on business of this receivership for a total number of forty-eight days. I have written or caused to be written in excess of two hundred letters and one hundred wires. I have talked from New [601] York with Receiver Lieurance in Oakland by long distance telephone. During the

absence of Receiver Lieurance from Oakland on business of the receivership I kept him informed fully and daily of all matters pertaining to this receivership, doing such things as were necessary to the conduct of the stores and of the receivership. For months I was in daily conference with Receiver Lieurance and his attorney, Edward R. Eliassen, these conferences occurring not only during the ordinary hours of business occupancy but at nights, on Sundays and holidays.

All these services which have been heretofore detailed in this statement consumed considerable time and extended over a period from June 3, 1926 to April 30, 1927. [602]

EXHIBITS FOR PLAINTIFF 3, 4, 5, 6, AND 7.

Consist of five reports rendered by the receivers. The originals of such exhibits will be transmitted to the Appellate Court, for use upon the appeal upon the order of the Judge of the court, and pursuant to stipulation of the parties.

RECEIVER'S EXHIBIT 9.

Consists of communications addressed by Receiver Lieurance to the several store managers. The original of such exhibit will be transmitted to the Appellate Court, for use upon the appeal, upon the order of the Judge of the court, and pursuant to stipulation of the parties.

PLAINTIFF'S EXHIBIT 10.

Consists of certain data assembled by Receiver Lieurance and sent by him to prospective pur-

chasers of the several stores. The original of such exhibit will be transmitted to the Appellate Court, for use upon the appeal, upon the order of the Judge of the court, and pursuant to stipulation of the parties.

RECEIVER'S EXHIBIT 11.

Consists of certain data showing the general value of the leasehold interests owned by the defendant R. A. Pilcher Co. Inc. at the time of the initiation of the receivership. The original of such exhibit will be transmitted to the Appellate Court, for use upon the appeal, upon the order of the Judge of the Court, and pursuant to stipulation of the parties.

RECEIVER'S EXHIBIT 12.

Consists of four stipulations, one in each of the four "Western jurisdictions" in which the receivership proceedings were [603] pending, including the above-entitled court, reducing the amount of temporary allowances made in favor of the Receivers and their attorney herein. The originals of such exhibit will be transmitted to the Appellate Court for use upon the appeal, upon the order of the Judge of the court, and pursuant to stipulation of the parties.

The final account filed by the receivers herein on May 17, 1927, together with the supplemental Receivers' account filed October 19, 1927, were referred to in the evidence, and some of the features thereof are material upon the appeal herein. The originals

of such documents will be transmitted to the Appellate Court, for use upon the appeal, upon the order of the Judge of the court, and pursuant to stipulation of the parties. [604]

[Title of Court and Cause.]

STIPULATION FOR SETTLEMENT OF
STATEMENT OF THE EVIDENCE AND
TRANSMISSION OF CERTAIN ORIGINAL
DOCUMENTS TO APPELLATE COURT.

In the above-entitled matter, the appellants served and filed a proposed statement of the evidence, and thereafter, within due time, the respondents have served and filed 21 proposed amendments thereto.

The matter of the settlement of such statement of the evidence came on for hearing, and at such hearing, the attorneys for the respective parties have agreed, and hereby stipulate, as follows:

(1) The respondents withdraw their proposed amendments Nos. 13, 14, 17, 18, 19, 20 and 21.

(2) The appellants consent to all of the other amendments proposed by the respondents.

(3) The appellants and the respondents agree that the statement of the evidence, as proposed by the appellants, with the amendments proposed by the respondents and consented to by the appellants as above stated, shall be settled and allowed by the Court as the statement of the evidence herein, and for use upon the appeal herein. [605]

(4) Attached hereto is an engrossed copy of the statement of the evidence, agreed upon by the appellants and the respondents, respectively, as hereinbefore stated; and the appellants and respondents have agreed and do hereby stipulate, that the same may be settled, allowed and certified by the Judge of the above-entitled court, and that the same may be filed in the above-entitled cause, as the statement of the evidence therein, for use upon the appeal therein.

(5) Under the above stipulation, exhibits for Plaintiff Nos. 3, 4, 5, 6, 7 and 8, Receiver's Exhibit No. 9, Plaintiffs' Exhibit No. 10 and Receivers Exhibit No. 11 were omitted from such statement of the evidence but with the express understanding, and the appellants and respondents hereby stipulate, that each and all of the original exhibits just mentioned together with original Receiver's Exhibit No. 12 shall be transmitted to the Appellate Court, properly certified and identified by the clerk of the above-entitled court, for use upon such appeal, and with the same force and effect as if included in such statement of the evidence, and as if the same were printed in full in the transcript of the record upon such appeal, the printing thereof being hereby waived.

(6) The parties to this stipulation further stipulate that the original final account filed by the Receivers herein, being document No. 44 in the files of the clerk of the above-entitled court, and the supplemental Receivers' account, filed October 19, 1927, and being document No. 67 in the files of the

clerk of the above-entitled court, shall be transmitted to the Appellate Court, properly certified and identified by the Clerk of the above-entitled court, for use upon such appeal, and with the same force and effect as if included in such statement of the evidence, and as if the same were printed in full in the transcript of the record upon such appeal, the printing thereof being hereby waived. [606]

(7) It is further stipulated by and between the parties hereto that an order or orders may be made and entered herein to carry into effect the foregoing provision of this stipulation without further notice by or to either of the parties to this stipulation.

Dated: November 26, 1928.

FRANCIS J. HENEY,
GRANT H. WREN,
C. A. SHUEY,

Attorneys for Appellants.

CROSBY & CROSBY,
EDWARD R. ELIASSEN,

Attorneys for Respondents. [607]

[Title of Court and Cause.]

ORDER APPROVING STATEMENT OF THE
EVIDENCE AND ORDER DIRECTING
CLERK TO TRANSMIT CERTAIN ORIGINAL
DOCUMENTS TO APPELLATE
COURT.

It appearing that heretofore, and in due time,

the objecting creditors (appellants) in the above-entitled cause served and lodged with the clerk of this court a proposed statement of the evidence, for use upon the appeal in such action; and that thereafter, and in due time, the respondents (A. F. Lieurance, Edward R. Eliassen and Phillip A. Hershey Co.) served and filed certain proposed amendments to such proposed statement of the evidence; and that thereafter, the appellants consented to certain of the amendments proposed by the respondents, and the respondents withdrew the other amendments proposed by them; and that thereupon, the appellants and respondents engrossed the foregoing statement of the evidence, to conform to the agreement between them concerning the form and contents of such statement of the evidence, and have stipulated that the foregoing may be settled, allowed and certified by the Judge of the above-entitled court, and that the same may be filed in the above-entitled cause, as the statement of the evidence therein, for use upon the appeal therein;

NOW, THEREFORE, pursuant to the above mentioned stipulation of the parties, and due cause appearing therefor: [608]

I, A. F. ST. SURE, Judge of the United States District Court for the Northern District of California, and the Judge before whom the above-entitled cause was tried, do hereby certify that the foregoing is a true and complete statement of all evidence essential to the decision of the questions presented by the appeal of the objecting creditors from the judgment and decree made and entered

herein on March 27, 1928, approving the report and findings of the Special Master, and overruling all objections thereto, and adjudging and decreeing that the final account of the Receivers and the report accompanying the same be approved, and that the compensation of Receiver A. F. Lieurance be fixed at the sum of \$35,000, and the compensation of Attorney Edward R. Eliassen be fixed at the sum of \$30,000, and that the Receiver pay to Phillip A. Hershey, accountant for the Receivers, the additional sum of \$769.71; and I do hereby approve the same as the statement of the evidence in said matter for the purpose of said appeal; and I do hereby ORDER that the same become a part of the record for the purpose of said appeal; and I do FURTHER ORDER that that part of said statement of the evidence which is set out in other than narrative form, is hereby approved.

And it further appearing that the appellants and respondents have further stipulated that certain original documents hereinafter mentioned, shall be transmitted to the Appellate Court, in the manner, and for use upon the appeal in such action, as hereinafter provided; and it appearing to the Court that under the rules applicable to the subject, such original document should be transmitted to the Appellate Court for use on such appeal, in lieu of the printing thereof in the transcript of record on such appeal;

NOW THEREFORE, pursuant to such further stipulation of the parties, above mentioned, and due cause appearing therefor,

IT IS HEREBY ORDERED:

(1) That the original documents hereinafter mentioned, [609] properly certified and identified by the Clerk of this court, shall be transmitted by the Clerk of this court, together with the transcript of the record upon such appeal, to the clerk of the Circuit Court of Appeals of the United States, for the Ninth Circuit, for use upon such appeal, and with the same force and effect as if such documents were included in the statement of the evidence, and with the same force and effect as if the same were included and printed in the transcript of the record upon such appeal, the printing thereof being hereby dispensed with; such documents to be returned to files of this court, upon the termination of such appeal and with the remittitur from the Appellate Court in such cause.

(2) The original documents to be transmitted to the Appellate Court as above provided, are as follows:

(a) The final account filed in the office of the clerk of this court by the Receivers in the above-entitled action on May 17, 1927, being document No. 44 in the files of the clerk of this court;

(b) The supplemental Receivers' account, filed in the office of the clerk of this court on October 19, 1927, and being document No. 67 in the files of the clerk of the above-entitled court;

(c) Those certain exhibits introduced in evidence during and upon the trial and hearing of the matter involved in such appeal; and being identified as Exhibits for Plaintiff Nos. 3, 4, 5, 6, 7 and 8,

Receiver's Exhibit No. 9, Plaintiff's Exhibit No. 10, Receiver's Exhibit No. 11 and Receiver's Exhibit No. 12; all of which exhibits were identified, as above stated by the Special Master before whom the trial and hearing of such matter was conducted, and were by such Special Master filed with the clerk of this court.

Dated: November 27, 1928.

[Endorsed]: Filed, Nov. 27, 1928.

A. F. ST. SURE,
District Judge. [610]

[Title of Court and Cause.]

PETITION FOR APPEAL AND ORDER
GRANTING SAME.

To the Hon. A. F. ST. SURE, United States District Judge, in and for the Northern District of Southern Division:

Walton N. Moore Dry Goods Co., J. H. Newbauer & Company, G. W. Reynolds Co., Inc. and L. Dinkelspiel Co., Inc., (creditors of the above-named defendant, R. A. Pilcher Co., and who, on their behalf, and on behalf of 55 other California creditors of the above-named defendant, interposed certain objections and exceptions to the final account and report of the Receivers, and to the petition for allowance of further fees and compensation to Receiver Lieurance or to Edward R. Eliassen, attorney for the Receivers) feeling themselves aggrieved by the judgment and decree made and entered in

this cause on the 27th day of March, 1928 (which judgment and decree, among other things, approved and confirmed the final accounts and reports of the Receivers herein, allowed and fixed the sum of \$30,000 as compensation to be paid to [611] Edward R. Eliassen, attorney for the Receivers, and the sum of \$35,000 as compensation to Receiver Lieurance and the sum of \$769.71 as additional compensation to Phillip A. Hershey as accountant for the Receivers, and which judgment and decree approved, ratified and confirmed the report and findings of the Special Master in the premises, and overruled all objections and exceptions thereto), do hereby appeal from said judgment and decree to the Circuit Court of Appeals for the Ninth Circuit for the reasons specified in the assignment of errors which is filed herewith;

And they pray that their appeal be allowed, that citation issue as provided by law, that a transcript of the record, proceedings and papers upon which said judgment and decree was based, duly authenticated, may be sent to the United States Circuit Court of Appeal for the Ninth Circuit sitting at San Francisco, California, and that the proper order be made, concerning the security to be required of them to perfect their appeal.

Dated: June 27, 1928.

[Endorsed]: Filed June 27, 1928.

FRANCIS J. HENEY,
GRANT H. WREN,
C. A. SHUEY,

Attorneys for Creditors, Walton N. Moore Dry Goods Co., J. H. Newbauer & Company, G. W. Reynolds Co., Inc., and L. Dinkelspiel Co., Inc.

Petition granted and appeal allowed upon giving bond conditioned as required by law in the sum of \$250.00.

Dated: June 28, 1928.

(Signed) A. F. ST. SURE,
United States District Judge, in and for the Northern District of California, Southern Division.

[612]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Walton N. Moore Dry Goods Co., J. H. Newbauer & Company, G. W. Reynolds Co., Inc., and L. Dinkelspiel Co., Inc., objecting creditors in the above-entitled cause, in connection with their petition for appeal in this case, assign the following errors, which they aver occurred in the trial and decision of the issues covered by the judgment and decree from which the appeal is taken, and upon which they rely to reverse the judgment and decree entered herein on March 27, 1928, as appears of record:

1. The Court erred in overruling the objections

and exceptions to the report and findings of the Special Master, dated January 19, 1928, for the reasons and upon the grounds stated in such objections and exceptions, as the same appear of record, to which reference is hereby made, and which are hereby made a part hereof, and leave of Court is hereby asked that the same be considered and treated as part hereof, with the same force and effect as if set forth in full herein; also for all of the reasons and upon all of the grounds hereinafter stated in assignments of error, Nos. 3, 4, 5, 6 and 7.

2. The Court erred in approving, ratifying and confirming [613] the report and findings of the Special Master, dated January 19, 1928, for the reasons and upon the grounds stated in the preceding assignment of error.

3. The Court erred in approving, ratifying and confirming the final accounts and reports of the Receivers, and particularly as to the items of \$10,000.00 paid to Phillip A. Hershey, for alleged services as accountant, for the reason and upon the grounds, as follows:

(a) The evidence proved that Phillip A. Hershey was employed and rendered his services under a contract of employment under which he was to receive compensation in the sum of \$350.00 per month, which was paid.

(b) The additional payments, in the aggregate sum above stated, constituted gratuitous payments, purporting to have been made as compensation for services for which full compensation had already been made; and such

additional payments were in violation of the contractual and other rights of the creditors, and contrary to law.

(c) The services rendered by Phillip A. Hershey were of an actual and reasonable value not exceeding the sum of \$350.00 per month, and which was paid to him, in addition to the payments above objected to.

(d) For the reasons hereinbefore stated, the approval, ratification and confirmation of such additional payments to Phillip A. Hershey are unsupported by and contrary to the evidence, are contrary to law, and constitute an abuse of discretion on the part of the trial court.

4. The Court erred in allowing to Phillip A. Hershey the further sum of \$769.71 and ordering the Receiver A. F. Lieurance to pay the same, for the reasons and upon the grounds set forth in the last preceding assignment of error. [614]

5. The Court erred in allowing and fixing the sum of \$30,000 as compensation to be paid to Edward R. Eliassen, as attorney for the Receivers, for the reasons and upon the grounds, as follows:

(a) The evidence proved that the services rendered by Edward R. Eliassen, as attorney for the Receivers, were of a value not exceeding the sum of \$15,000.00.

(b) The allowance of any sum in excess of the sum of \$15,000.00, above mentioned, was unsupported by and contrary to the evidence,

and contrary to law, and constituted an abuse of discretion on the part of the trial court.

6. The Court erred in allowing and fixing the sum of \$35,000 as the compensation of A. F. Lieurance as Receiver for the reasons and upon the grounds, as follows:

(a) The evidence proved that the services rendered by A. F. Lieurance as Receiver, were of a value not exceeding the sum of \$15,000.00.

(b) The allowance of any sum in excess of \$15,000, above mentioned, was unsupported by and contrary to the evidence, and contrary to law, and constituted an abuse of discretion on the part of the trial court.

7. The Court erred in entering the judgment and decree of March 27, 1928, upon each and all of the grounds hereinbefore stated, and upon each and all of the reasons and grounds stated in the exceptions to the report of the Special Master dated January 19, 1928, which exceptions appear of record herein, and to which reference is hereby made, and which are hereby made a part hereof; and leave of Court is again asked that the same be considered and treated as part hereof with the same force and effect as if set forth in full herein.

Dated: June 27, 1928.

FRANCIS J. HENEY,
GRANT H. WREN,
C. A. SHUEY,

Attorneys for Walton N. Moore Dry Goods Co.,
J. H. Newbauer & Company, G. W. Reynolds
Co., Inc., and L. Dinkelspiel Co., Inc.

[Endorsed]: Filed June 27, 1928. [615]

[Title of Court and Cause.]

PETITION FOR AND ALLOWANCE OF
SUPERSEDEAS.

Walton N. Moore Dry Goods Co., J. H. Newbauer & Company, G. W. Reynolds Co., Inc., and L. Dinkelspiel Co., Inc., (having on June 27, 1928, petitioned for an appeal from the judgment and decree entered in the above-entitled action on March 27, 1928, and such appeal having been allowed on June 28, 1928), hereby petition the Court for the allowance of a supersedeas in said action, upon said appeal, and to fix the amount of the supersedeas bond to be furnished by the appellants above named; and ask that the order allowing such supersedeas and fixing the amount of the supersedeas bond shall provide that the supersedeas bond and the cost bond heretofore required, may be combined in one bond, to be conditioned as required by law.

Dated: June 30, 1928.

FRANCIS J. HENEY,
GRANT H. WREN,
C. A. SHUEY,

Attorneys for Walton N. Moore Dry Goods Co.,
J. H. Newbauer & Company, G. W. Reynolds
Co., Inc., and L. Dinkelspiel Co., Inc.,

Appellants. [616]

Supersedeas in the above-entitled action is hereby allowed; the amount of the supersedeas bond to be furnished by the appellants is hereby fixed at the

sum of \$5,000.00; and such supersedeas bond may be combined with the cost bond heretofore required, in the sum of \$250, in which event, such combined bond shall be for the aggregate sum of \$5,250.00, shall be conditioned as required by law, and shall be subject to the approval of the Court.

Dated: July 3, 1928.

FRANK H. KERRIGAN,
United States District Judge.

[Endorsed]: Filed July 10, 1928. [617]

The premium charged for this bond is \$52.50
Dollars per annum.

[Title of Court and Cause.]

BOND ON APPEAL.

KNOW ALL MEN BY THESE PRESENTS:
That we, Walton N. Moore Dry Goods Co., J. H. Newbauer & Company, G. W. Reynolds Co., Inc., and L. Dinkelspiel Co., Inc., as principals and Fidelity and Deposit Company of Maryland (a surety company organized under the laws of the State of Maryland and authorized to transact the business of surety in the State of California), as surety, are held and firmly bound unto A. F. Lieurance, Edward R. Eliassen and Phillip A. Hershey in the full and just sum of Five Thousand Two Hundred and Fifty Dollars, to be paid to the said A. F. Lieurance, Edward R. Eliassen and Phillip A. Hershey, their respective executors, administrators or assigns;

to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 3d day of July, in the year of our Lord one thousand nine hundred and twenty-eight.

WHEREAS, lately at a District Court of the United States for the Northern District of California (Southern Division), in a suit pending in said court, between Sidney Gilson, Herman Avrutine and Samuel Avrutine, copartners engaged in business as National [618] Garment Co., plaintiffs and R. A. Pilcher Co., Inc., defendant (which suit was numbered in the Equity Department of said court as "In Equity No. 1707"), a judgment and decree was rendered under date of March 27, 1928, which judgment and decree, among other things, approved and confirmed the final accounts and reports of the Receivers herein, allowed and fixed the sum of \$30,000 as compensation to be paid to Edward R. Eliassen, attorney for the Receivers, and the sum of \$35,000 as compensation to Receiver Lieurance and the sum of \$769.71 as additional compensation to Phillip A. Hershey as accountant for the Receivers, and which judgment and decree approved, ratified and confirmed the report and findings of the Special Master in the premises, and overruled all objections and exceptions thereto; and the said Walton N. Moore Dry Goods Co., J. H. Newbauer & Company, G. W. Reynolds Co., Inc., and L. Dinkelspiel Co., Inc., having obtained from said Court an appeal to reverse the above-mentioned

judgment and decree in the aforesaid suit, and a citation directed to the said A. F. Lieurance, Edward R. Eliassen and Phillip A. Hershey citing and admonishing them to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California;

Now, the condition of the above obligation is such, That if the said Walton N. Moore Dry Goods Co., J. H. Newbauer & Company, G. W. Reynolds Co., Inc., and L. Dinkelspiel Co., Inc., shall prosecute their aforesaid appeal to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void; otherwise to remain in full force and effect.

It is further stipulated as a part of the foregoing bond, that in case of a breach of any condition thereof, the above-named District Court may, upon notice to the surety above [619] named of not less than ten days, proceed summarily in said action or suit to ascertain the amount which said surety is bound to pay on account of such breach, and render judgment therefor against said surety and award execution therefor.

WALTON N. MOORE DRY GOODS CO.,
J. H. NEWBAUER & COMPANY,
G. W. REYNOLDS CO., INC.,
L. DINKELSPIEL CO., INC.,

(Principals).

By GRANT H. WREN,

Their Attorney.

FIDELITY & DEPOSIT COMPANY OF
MARYLAND,

(Surety).

[Corporate Seal] By F. W. SWINGLEY,
Atty.-in-fact.

Attest: ANNA GIBSON,
Agent.

The foregoing bond is approved July 9th, 1928.

A. F. ST. SURE,

United States District Judge. [620]

State of California,

City and County of San Francisco,—ss.

On this 3d day of July, A. D. 1928, before me Amy B. Townsend, a notary public in and for the city and county of San Francisco, residing therein, duly commissioned and sworn, personally appeared E. W. Swingley, attorney-in-fact, and Anna Gibson, agent, of the Fidelity and Deposit Company of Maryland, a corporation, known to me to be the persons who executed the within instrument on behalf of the corporation therein named and acknowledged to me that such corporation executed the same, and also known to me to be the persons whose names are subscribed to the within instrument as the attorney-in-fact and agent respectively of said corporation, and they, and each of them, acknowledged to me that they subscribed the name of said Fidelity and Deposit Company of Maryland thereto as principal and their own names as Attorney-in-fact and Agent respectively.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the City and County of San Francisco, the day and year first above written.

AMY B. TOWNSEND,
Notary Public in and for the City and County of
San Francisco, State of California.

My commission expires Oct. 29, 1930.

[Endorsed]: Filed July 10, 1928. [621]

[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD
ON APPEAL.

To the Clerk of the Above-named Court:

You will please prepare and certify transcript of record on appeal in the above-entitled cause consisting of the following:

1. Complaint of the plaintiffs herein (being document No. 1 in the files of this action).

2. Exemplified copies of proceedings in original proceeding (being document No. 7 in the files of this action).

3. Order making temporary appointment of Receivers Lieurance and Gotthold (being document No. 2 in the files of this action).

4. Order making permanent appointment of Receivers Lieurance and Gotthold (being document No. 14 in the files of this action).

5. Receivers' report accompanying final account (being document No. 38 in the files of this action).

6. Petition of Receivers for settlement and approval of their final account and report, and for an order finally fixing the fees and compensation of A. F. Lieurance as Receiver and [622] Edward R. Eliassen as attorney for Receivers (being document No. 39 in the files of this action).

7. Objections and exceptions to final account and report of the Receivers, also to the petition for allowance of further fees and compensation to Receiver Lieurance and Attorney Eliassen (being document No. 50 in the files of this action).

8. Answer of Receivers to the objections and exceptions to final account and report of Receivers filed herein (being document No. 63 in the files of this action).

9. Order of the United States District Court for the District of Oregon, transferring to the above-named court, the same general issues concerning the Receivers' account and the allowance of fees, pending in the District of Oregon, for a consolidated hearing of all of such issues, by the above-named court (being document No. 55 in the files of this action).

10. Order of the United States District Court for the Western District of Washington, transferring to the above-named court, the same general issues concerning the Receivers' account and the allowance of fees, pending in the Western District of Washington, for a consolidated hearing of all of such issues, by the above-named court (being document No. 56 in the files of this action).

11. Order of the United States District Court for the Eastern District of Washington, transferring to the above-named court, the same general issues concerning the Receivers' account and allowance of fees, pending in the Eastern District of Washington, for a consolidated hearing of all of such issues, by the above-named court (being document No. 57 in the files of this action).

12. Order of reference to a Special Master (being minute order under date of September 20, 1927).
[623]

13. Report and findings by the Special Master (being document No. 78 in the files of this action).

14. Exceptions to the Report and findings of the Special Master (being document No. 82 in the files of this action).

15. Order and decree made and entered herein on March 27, 1928, confirming the report and findings of the Special Master and overruling exceptions thereto; and adjudging and decreeing that the final and supplemental accounts of the Receivers be approved, ratified and confirmed, and fixing the Receiver's fee at \$35,000 and the fee of his attorney at \$30,000 and allowing a further payment of \$769.11 to the account of the Receivers (being document No. 84 in the files of this action).

16. Petition for appeal and order allowing same (being document No. 87 in the files of this action).

17. Assignment of errors (being document No. 88 in the files of this action).

18. Petition for supersedeas and order allowing

same and fixing the amount of bond therefor (being document No. 89 in the files of this action).

19. Bond on appeal and supersedeas bond (combined in one document), (being document No. 91 in the files of this action).

20. Statement of the evidence herein, prepared and filed by the objecting creditors, as the same shall hereafter be settled and allowed by the Court (which document is filed contemporaneously with this praecipe).

21. Copy of this praecipe.

Please prepare a certificate of the transcript of this record, and attach thereto the original citation on appeal, on file herein.

Dated: September 17, 1928.

FRANCIS J. HENEY,
GRANT H. WREN,
C. A. SHUEY,

Attorneys for Objecting Creditors (Appellants).

[Endorsed]: Filed Sep. 19, 1928. [624]

(Title of Court and Cause.)

ORDER ENLARGING TIME TEN DAYS FOR
FILING COUNTER-PRAECIPE.

Good cause appearing therefor, IT IS HEREBY ORDERED that the appellees in the above-entitled matter may have ten (10) days' additional time from September 27th, 1928, within which to file with the Clerk of the above-entitled court a counter-

praecipe in the matter of the record to be incorporated into the transcript on appeal in the above-entitled proceeding. And the time of the appellees in the premises is hereby enlarged accordingly.

Dated, September 25th, 1928.

A. F. ST. SURE,
United States District Judge.

[Endorsed]: Filed September 26, 1928. [625]

(Title of Court and Cause.)

ORDER ENLARGING TIME TWO WEEKS
FOR FILING OF COUNTER-PRAECIPE.

Good cause appearing therefor, IT IS HEREBY ORDERED that the appellees in the above-entitled matter may have two (2) weeks' additional time from October 8th, 1928, within which to file with the Clerk of the above-entitled court a counter-praecipe in the matter of the record to be incorporated into the transcript on appeal in the above-entitled proceeding. And the time of the appellees in the premises is hereby enlarged accordingly.

Dated, October 6th, 1928.

A. F. ST. SURE,
United States District Judge.

[Endorsed]: Filed October 6th, 1928. [626]

(Title of Court and Cause.)

ORDER ENLARGING TIME ONE WEEK FOR
FILING COUNTER-PRAECIPE.

Good cause appearing therefor, IT IS HEREBY ORDERED that the appellees in the above-entitled matter may have one (1) week additional time from October 22d, 1928, within which to file with the Clerk of the above-entitled court a counter-praecipe in the matter of the record to be incorporated into the transcript on appeal in the above-entitled proceeding. And the time of the appellees in the premises is hereby enlarged accordingly.

Dated, October 20, 1928.

A. F. ST. SURE,
United States District Judge.

[Endorsed]: Filed October 20, 1928. [627]

(Title of Court and Cause.)

ORDER EXTENDING TIME TO AND INCLUDING
NOVEMBER 8, 1928, FOR FILING OF
COUNTER-PRAECIPE.

Good cause appearing therefor, IT IS HEREBY ORDERED that the appellees in the above-entitled matter may have additional time; that is to say, to and including the 8th day of November, 1928, within which to file with the Clerk of the above-entitled court a counter-praecipe in the matter of the record to be incorporated in the transcript on

appeal in the above-entitled proceeding. And the time of the appellees in the premises is hereby enlarged accordingly.

Dated: October 27, 1928.

A. F. ST. SURE,
United States District Judge.

[Endorsed]: Filed October 27, 1928. [628]

(Title of Court and Cause.)

ORDER EXTENDING TIME TO AND INCLUDING DECEMBER 6, 1928, TO CERTIFY AND TRANSMIT TRANSCRIPT OF RECORD.

Good cause appearing therefor, and pursuant to stipulation of the parties hereto, filed herein, the time within which the Clerk of this court may certify and transmit the transcript of the record on appeal in the above-entitled cause is hereby extended until and including December 6, 1928.

Dated: October 27th, 1928.

A. F. ST. SURE,
United States District Judge.

[Endorsed]: Filed October 27th, 1928. [629]

(Title of Court and Cause.)

COUNTER-PRAECIPE FOR TRANSCRIPT
OF RECORD ON APPEAL.

To the Clerk of the above Court:

Come now the appellees and respectfully request the Clerk of the above-entitled Court to prepare and certify as part of the transcript of record on appeal in the above-entitled cause the following, viz.:

1. Petition for order authorizing auditor to make trip to New York, filed October 25th, 1926, Document No. 19;

2. Order dated October 25th, 1926, authorizing auditor to make trip to New York, filed October 25th, 1926, Document No. 21;

3. Stipulation of Joseph Kirk concerning filing of claims in New York to be considered as filed here, filed December 10th, 1926, Document No. 25;

4. Order based on last-mentioned stipulation, filed December 10th, 1926, Document No. 26;

5. Order dated September 10th, 1928, authorizing dividend and fixing attorney's fees and Receiver's fees on account, Document No. 27;

6. Order authorizing payment of dividend of ten per cent, filed May 11th, 1927, Document No. 36;

7. Petition for order in premises, filed May 11th, 1926, Document No. 35;

8. Stipulation dated February 1, 1927, re reduction of fees, filed May 20th, 1927, Document No. 45;

9. Order amending order of December 10th,

1926, on stipulation, filed May 20th, 1927, Document No. 46;

10. Supplemental account and report, filed October 19th, 1927, Document No. 67;

11. Memorandum for order conditioned on paying \$1700, dated March 26th, 1928, Document No. 83;

12. Supplemental and final account, filed April 5th, 1928, showing contributions and also payment of balance of fees and remittance to New York, Document No. 85;

13. Copy of order extending time to file counter-praecepe, filed September 26th, 1928, Document No. [630]

14. All orders enlarging time for filing of counter-praecepe, including order enlarging time, dated October 27th, 1928;

15. Copy of this counter-praecepe.

Dated, November 1st, 1928.

CROBSY & CROSBY and
EDWARD R. ELIASSEN,
Attorneys for Appellees.

Receipt of a copy of the within counter-praecepe etc. is hereby admitted this 3d day of November, 1928.

FRANCIS J. HENEY,
GRANT H. WREN,
C. A. SHUEY,
Attorneys for Appellants.

[Endorsed]: Filed Nov. 3, 1928. [631]

(Title of Court and Cause.)

STIPULATION RE CONTENTS OF TRAN-
SCRIPT OF RECORD ON APPEAL.

To the Clerk of the Above Court:

Heretofore, the appellants in the above-entitled action served and filed a praecipe for the transcript of the record on appeal in the above-entitled action; and thereafter and in due time, the respondents served and filed a counter-praecipe for such transcript of record on appeal.

The appellants and respondents have agreed, and hereby stipulate, that the transcript of record on the appeal in the above-entitled action shall consist of the following documents:

(1) All of the documents mentioned in the appellant's praecipe above mentioned; the respondents hereby consenting to each and all thereof;

(2) Items numbered 3, 4, 5, 9, 11, 12, 13, 14 and 15, contained in respondent's praecipe above mentioned; the appellants hereby consenting to each and all of the foregoing documents and the respondents hereby withdrawing documents numbered 1, 2, 6, 7, 8 and 10 in respondent's praecipe above mentioned.

(Attention is directed to document numbered 5 in respondents counter-praecipe. The date of the document is given as September 10, 1928; this is erroneous; the correct date is December 10, 1926.)

(3) A copy of this stipulation.

Dated: November 26th, 1928. [632]

FRANCIS J. HENEY,

GRANT H. WREN,

C. A. SHUEY,

Attorneys for Appellants.

CROSBY & CROSBY,

EDWARD R. ELIASSEN,

Attorneys for Respondents.

[Endorsed]: Filed November 26th, 1928. [633]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT OF RECORD.

I, Walter B. Maling, Clerk of the District Court of the United States, in and for the Northern District of California, do hereby certify the foregoing six hundred and thirty-three (633) pages, numbered from 1 to 633, inclusive, to be a full, true and correct copy of the record and proceedings as enumerated in the praecipis for record on appeal, as the same remain on file and of record in the above-entitled suit, in the office of the Clerk of said court, and that the same constitutes the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that the costs of the foregoing transcript of record is \$313.90; that the said amount was paid by the appellant and that the original citation issued in said suit is hereto annexed.

IN WITNESS WHEREOF, I have hereunto set

decree appealed from should not be corrected and speedy justice done the parties in that behalf.

WITNESS, the Honorable A. F. ST. SURE, United [635] States District Judge for the Northern District of California, Southern Division, and the Judge who presided at the trial and rendered the judgment and decree in this case, in said United States District Court for the Northern District of California, Southern Division, this 9 day of July, 1928.

A. F. ST. SURE,
United States District Judge, in and for the Northern District of California, Southern Division.
[636]

[Endorsed]: Citation. Filed Jul. 10, 1928. [637]

[Endorsed]: No. 5660. United States Circuit Court of Appeals for the Ninth Circuit. Walton N. Moore Dry Goods Co., a Corporation, J. H. Newbauer & Company, a Corporation, G. W. Reynolds Co., Inc., a Corporation, and L. Dinkelspiel Co., Inc., a Corporation, Appellants, vs. A. F. Lieurance, and Phillip A. Hershey, as Receivers of R. A. Pilcher Co., Inc., a Corporation, Bankrupt, Appellees. Transcript of Record. Upon Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed December 17, 1928.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit. *pb*
B.O.-5